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Annual report of the International Tribunal for the Law of the Sea for 2015

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3(d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2015.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea. It functions in accordance with the relevant provisions of parts XI and XV of the Convention, the Statute of the Tribunal, as contained in annex VI to the Convention, and the Rules of the Tribunal.

II. Organization of the Tribunal

3. The Tribunal is composed of 21 members elected by the States Parties to the Convention in the manner provided for in article 4 of the Statute.

4. On 18 May 2015, Judge Vicente Marotta Rangel (Brazil) resigned from the Tribunal. With his resignation, a vacancy occurred in the Tribunal. Taking this change into account, as at 31 December 2015, the composition of the Tribunal was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
Vladimir Vladimirovich Golitsyn	Russian Federation	30 September 2017
Vice-President		
Boualem Bouguetaia	Algeria	30 September 2017
Judges		
P. Chandrasekhara Rao	India	30 September 2017
Joseph Akl	Lebanon	30 September 2017
Rüdiger Wolfrum	Germany	30 September 2017
Tafsir Malick Ndiaye	Senegal	30 September 2020
José Luis Jesus	Cabo Verde	30 September 2017
Jean-Pierre Cot	France	30 September 2020
Anthony Amos Lucky	Trinidad and Tobago	30 September 2020
Stanislaw Pawlak	Poland	30 September 2023
Shunji Yanai	Japan	30 September 2023
James Kateka	United Republic of Tanzania	30 September 2023
Albert Hoffmann	South Africa	30 September 2023

Order of precedence	*Country*	*Date of expiry of term of office*
Zhiguo Gao	China	30 September 2020
Jin-Hyun Paik	Republic of Korea	30 September 2023
Elsa Kelly	Argentina	30 September 2020
David Joseph Attard	Malta	30 September 2020
Markiyan Z. Kulyk	Ukraine	30 September 2020
Alonso Gómez-Robledo Verduzco	Mexico	30 September 2023
Tomas Heidar	Iceland	30 September 2023

5. The Registrar of the Tribunal is Philippe Gautier (Belgium). The Deputy Registrar is Doo-young Kim (Republic of Korea).

6. Acting pursuant to article 6, paragraph 1, of the Statute, the Registrar, in a note verbale dated 11 June 2015, informed States parties to the Convention of the vacancy which had occurred in the Tribunal owing to the resignation of Judge Marotta Rangel and invited Governments of States parties to submit, between 1 July and 31 August 2015, the names of candidates they might wish to nominate for membership on the Tribunal. By that note verbale, the Registrar informed the States parties that the member elected to replace Judge Marotta Rangel would serve for the remainder of his term, namely, until 30 September 2017.

7. In a note verbale dated 1 October 2015, the Registrar further informed the States parties that the President of the Tribunal, in accordance with article 6, paragraph 1, of the Statute, had decided that the election to fill the vacancy created by the resignation of Judge Marotta Rangel for the remainder of the term for which he had been elected would take place on 15 January 2016.[1]

III. Chambers

A. Seabed Disputes Chamber

8. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the Tribunal from among its elected members. The members of the Chamber are selected triennially and, as at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Jesus, President; Judges Akl, Ndiaye, Cot, Lucky, Pawlak, Yanai, Kateka, Paik, Kelly and Attard, members.

9. The terms of office of the members of the Chamber expire on 30 September 2017.

[1] On 15 January 2016, at a special meeting of States parties, Judge Antonio Cachapuz de Medeiros (Brazil) was elected a member of the Tribunal, for the period ending on 30 September 2017.

B. Special chambers

1. Chamber of Summary Procedure

10. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber.

11. The Chamber is constituted annually. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Golitsyn, President; Vice-President Bouguetaia and Judges Chandrasekhara Rao, Wolfrum and Jesus, members; Judges Cot and Attard, alternates.

2. Chamber for Fisheries Disputes

12. On 20 February 1997, the Tribunal established the Chamber for Fisheries Disputes in accordance with article 15, paragraph 1, of the Statute. On 18 May 2015, a vacancy occurred in the Chamber owing to the resignation of Judge Marotta Rangel. Taking this change into account, as at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Lucky, President; Judges Wolfrum, Ndiaye, Yanai, Kateka, Gao, Kulyk and Heidar, members.

13. The terms of office of the members of the Chamber expire on 30 September 2017.

3. Chamber for Marine Environment Disputes

14. On 20 February 1997, the Tribunal established the Chamber for Marine Environment Disputes in accordance with article 15, paragraph 1, of the Statute. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Kateka, President; Judges Pawlak, Hoffmann, Gao, Paik, Kelly, Attard, Kulyk and Gómez-Robledo, members.

15. The terms of office of the members of the Chamber expire on 30 September 2017.

4. Chamber for Maritime Delimitation Disputes

16. On 16 March 2007, the Tribunal established the Chamber for Maritime Delimitation Disputes in accordance with article 15, paragraph 1, of the Statute. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Golitsyn, President; Vice-President Bouguetaia and Judges Chandrasekhara Rao, Wolfrum, Ndiaye, Jesus, Yanai, Hoffmann, Gao, Gómez-Robledo and Heidar, members.

17. The terms of office of the members of the Chamber expire on 30 September 2017.

5. Chamber under article 15, paragraph 2, of the Statute

18. Article 15, paragraph 2, of the Statute provides that the Tribunal shall form a chamber for dealing with a particular dispute, if the parties so request. The

composition of such a chamber is determined by the Tribunal with the approval of the parties in the manner provided for in article 30 of the Rules.

19. By a special agreement concluded on 3 December 2014, Ghana and Côte d'Ivoire agreed to submit the dispute concerning the delimitation of their maritime boundary in the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to article 15, paragraph 2, of the Statute. In the special agreement, Ghana and Côte d'Ivoire conveyed their views regarding the composition of the Special Chamber of the Tribunal and agreed that it would include two judges ad hoc: Thomas Mensah, chosen by Ghana, and Ronny Abraham, chosen by Côte d'Ivoire.

20. By an order dated 12 January 2015, the Tribunal decided to accede to the request of Ghana and Côte d'Ivoire to form a Special Chamber of five judges to deal with the case.

21. The composition of the Special Chamber to deal with the case is as follows: Vice-President Bouguetaia, President; Judges Wolfrum and Paik and Judges ad hoc Mensah and Abraham, members.

IV. Committees

22. During the fortieth session, on 29 September 2015, the Tribunal reconstituted its committees. The composition is as follows.[2]

A. Committee on Budget and Finance

23. The members of the Committee on Budget and Finance are: Judge Akl, Chairman; Judges Jesus, Cot, Yanai, Hoffmann, Gao, Kelly, Attard, and Kulyk, members.

B. Committee on Rules and Judicial Practice

24. The members of the Committee on Rules and Judicial Practice are: President Golitsyn, Chairman; Vice-President Bouguetaia, Judges Chandrasekhara Rao, Wolfrum, Ndiaye, Jesus (ex officio member as President of the Seabed Disputes Chamber), Cot, Pawlak, Yanai, Kateka, Hoffmann and Gómez-Robledo, members.

C. Committee on Staff and Administration

25. The members of the Committee on Staff and Administration are: Judge Paik, Chairman; Judges Wolfrum, Jesus, Lucky, Pawlak, Yanai and Attard, members.

[2] For the terms of reference of the committees, see SPLOS/27, paras. 37-40; SPLOS/50, paras. 36-37; and SPLOS/136, para. 46.

D. Committee on Library, Archives and Publications

26. The members of the Committee on Library, Archives and Publications are: Judge Wolfrum, Chairman; Judges Ndiaye, Pawlak, Paik, Kelly, Attard, Kulyk and Gómez-Robledo, members.

E. Committee on Buildings and Electronic Systems

27. The members of the Committee on Buildings and Electronic Systems are: Judge Kulyk, Chairman; Judges Cot, Lucky, Gao and Heidar, members.

F. Committee on Public Relations

28. The members of the Committee on Public Relations are: Judge Gao, Chairman; Judges Chandrasekhara Rao, Akl, Jesus, Kateka, Kelly, Gómez-Robledo and Heidar, members.

V. Meetings of the Tribunal

29. In 2015, judicial meetings of the Tribunal took place as follows:

(a) Case No. 21 on the list of cases of the Tribunal (advisory opinion):

Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)

The Tribunal met from 12 to 22 January, from 23 February to 6 March and on 31 March 2015 to consider and adopt the draft advisory opinion. The Tribunal delivered its advisory opinion on 2 April 2015.

(b) Case No. 23 on the list of cases of the Tribunal (merits):

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)

The special chamber of the Tribunal formed to deal with the case met from 28 March to 2 April and on 18, 24 and 25 April 2015 to consider a request for the prescription of provisional measures submitted by Côte d'Ivoire on 27 February 2015. The special chamber delivered its order on 25 April 2015.

(c) Case No. 24 on the list of cases of the Tribunal (urgent proceedings):

The "Enrica Lexie" Incident (Italy v. India), Provisional Measures

The Tribunal met from 8 to 21 August 2015 to deal with urgent proceedings instituted by Italy on 21 July 2015. The Tribunal delivered its order on 24 August 2015.

30. The Tribunal also held two sessions devoted to legal and judicial matters as well as organizational and administrative matters: the thirty-ninth session was held from 9 to 20 March 2015 and the fortieth session from 21 September to 2 October 2015.

31. The Tribunal decided to hold its forty-first session from 7 to 18 March 2016 to deal with legal matters having a bearing on the judicial work of the Tribunal and with organizational and administrative matters.

VI. Judicial work of the Tribunal

A. *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*

32. The Sub-Regional Fisheries Commission (SRFC) is a regional fisheries organization composed of seven member States: Cabo Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone. By a resolution adopted by the Conference of Ministers of the Sub-Regional Fisheries Commission at its fourteenth session, held on 27 and 28 March 2013, the Conference of Ministers decided, in accordance with article 33 of the 2012 Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the Sub-Regional Fisheries Commission (MCA Convention), to authorize the Permanent Secretary of the Commission to submit a request for an advisory opinion to the Tribunal, pursuant to article 138 of the Rules.

33. On 28 March 2013, the Permanent Secretary of the Sub-Regional Fisheries Commission transmitted to the Tribunal a request for an advisory opinion on the following questions:

(1) What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the exclusive economic zone of third party States?

(2) To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?

(3) Where a fishing licence is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?

(4) What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

34. The request was received by the Tribunal on 28 March 2013 and entered in the list of cases of the Tribunal as case No. 21.

35. On 24 May 2013, the Tribunal adopted an order and fixed 29 November 2013 as the time limit for the presentation of written statements. The time limit was extended to 19 December 2013 by an order of the President dated 3 December 2013.

36. Within this time limit, written statements were filed by the following States parties to the Convention, which are listed in chronological order by date of submission: Saudi Arabia, Germany, New Zealand, China, Somalia, Ireland, Federated States of Micronesia, Australia, Japan, Portugal, Chile, Argentina, United Kingdom of Great Britain and Northern Ireland, Thailand, Netherlands, European

Union, Cuba, France, Spain, Montenegro, Switzerland and Sri Lanka. Within the same time limit, written statements were also submitted by SRFC and the following six organizations, which are listed in chronological order by date of submission: Forum Fisheries Agency, International Union for Conservation of Nature, Caribbean Regional Fisheries Mechanism, United Nations, Food and Agriculture Organization of the United Nations and Central American Fisheries and Aquaculture Organization. Those written statements were made accessible to the public on the Tribunal's website.

37. A statement by a State not party to the Convention (United States of America) was submitted to the Tribunal. The Tribunal decided that this statement should be considered as part of the case file and should be posted on the Tribunal's website, in a separate section of documents related to the case, entitled "States parties to the 1995 Straddling Fish Stocks Agreement".

38. In addition, a statement was submitted by an international non-governmental organization (World Wide Fund for Nature), which was informed by the Registrar, in a letter dated 4 December 2013, that its statement would not be considered part of the case file, but would be placed on the Tribunal's website in a separate section of documents relating to the case.

39. By an order dated 20 December 2013, the President fixed 14 March 2014 as the time limit within which States parties to the Convention and intergovernmental organizations having presented written statements could submit written statements on the statements made.

40. Within this time limit, additional written statements were submitted by the following States parties, which are listed in chronological order by date of submission: United Kingdom, New Zealand, European Union, Netherlands and Thailand. Within the same time limit, an additional written statement was also submitted by SRFC. All the statements were posted on the website of the Tribunal.

41. In addition, a statement was submitted by the World Wide Fund for Nature, which was informed by the Registrar, in a letter dated 20 March 2014, that its statement would not be included in the case file but would be placed on the Tribunal's website in a separate section of documents relating to the case.

42. By an order dated 14 April 2014, the President fixed 2 September 2014 as the date for the opening of the oral proceedings and invited the States parties, SRFC and the intergovernmental organizations listed in the annex to the order of the Tribunal of 24 May 2013 to participate in the proceedings.

43. Prior to the opening of the oral proceedings, the Tribunal held initial deliberations on 29 August and 1 September 2014.

44. The hearing took place from 2 to 5 September 2014, during which statements were made at four public sittings by States parties and international organizations in the following order: SRFC, Germany, Argentina, Australia, Chile, Spain, Federated States of Micronesia, New Zealand, United Kingdom, Thailand, European Union, Caribbean Regional Fisheries Mechanism and International Union for Conservation of Nature.

45. The Tribunal delivered its advisory opinion on 2 April 2015. It decided that it had jurisdiction to give the advisory opinion requested by SRFC and that, in the

case before it, its jurisdiction was limited to the exclusive economic zones of the SRFC member States. The Tribunal decided to respond to the request.

46. The replies to the questions submitted by SRFC as contained in the operative clauses of the advisory opinion (para. 219) are reproduced below:

> THE TRIBUNAL,
>
> ...
>
> ***Replies* to the first question as follows:**
>
> The flag State has the obligation to take necessary measures, including those of enforcement, to ensure compliance by vessels flying its flag with the laws and regulations enacted by the SRFC Member States concerning marine living resources within their exclusive economic zones for purposes of conservation and management of these resources.
>
> The flag State is under an obligation, in light of the provisions of article 58, paragraph 3, article 62, paragraph 4, and article 192 of the Convention, to take the necessary measures to ensure that vessels flying its flag are not engaged in IUU fishing activities as defined in the MCA Convention within the exclusive economic zones of the SRFC Member States.
>
> The flag State, in fulfilment of its obligation to effectively exercise jurisdiction and control in administrative matters under article 94 of the Convention, has the obligation to adopt the necessary administrative measures to ensure that fishing vessels flying its flag are not involved in activities in the exclusive economic zones of the SRFC Member States which undermine the flag State's responsibility under article 192 of the Convention for protecting and preserving the marine environment and conserving the marine living resources which are an integral element of the marine environment.
>
> The foregoing obligations are obligations of "due diligence".
>
> The flag State and the SRFC Member States are under an obligation to cooperate in cases related to IUU fishing by vessels of the flag State in the exclusive economic zones of the SRFC Member States concerned.
>
> The flag State, in cases where it receives a report from an SRFC Member State alleging that a vessel or vessels flying its flag have been involved in IUU fishing within the exclusive economic zone of that SRFC Member State, has the obligation to investigate the matter and, if appropriate, take any action necessary to remedy the situation, and to inform the SRFC Member State of that action.
>
> ...
>
> ***Replies* to the second question as follows:**
>
> The liability of the flag State does not arise from a failure of vessels flying its flag to comply with the laws and regulations of the SRFC Member States concerning IUU fishing activities in their exclusive economic zones, as the violation of such laws and regulations by vessels is not per se attributable to the flag State.

The liability of the flag State arises from its failure to comply with its "due diligence" obligations concerning IUU fishing activities conducted by vessels flying its flag in the exclusive economic zones of the SRFC Member States.

The SRFC Member States may hold liable the flag State of a vessel conducting IUU fishing activities in their exclusive economic zones for a breach, attributable to the flag State, of its international obligations, referred to in the reply to the first question.

The flag State is not liable if it has taken all necessary and appropriate measures to meet its "due diligence" obligations to ensure that vessels flying its flag do not conduct IUU fishing activities in the exclusive economic zones of the SRFC Member States.

...

***Replies* to the third question as follows:**

The question only relates to those international organizations, referred to in articles 305, paragraph 1(f), and 306 of the Convention, and Annex IX to the Convention, to which their member States, which are parties to the Convention, have transferred competence over matters governed by it; in the present case the matter in question is fisheries. At present, the only such international organization is the European Union to which the member States, which are parties to the Convention, have transferred competence with regard to "the conservation and management of sea fishing resources".

In cases where an international organization, in the exercise of its exclusive competence in fisheries matters, concludes a fisheries access agreement with an SRFC Member State, which provides for access by vessels flying the flag of its member States to fish in the exclusive economic zone of that State, the obligations of the flag State become the obligations of the international organization. The international organization, as the only contracting party to the fisheries access agreement with the SRFC Member State, must therefore ensure that vessels flying the flag of a member State comply with the fisheries laws and regulations of the SRFC Member State and do not conduct IUU fishing activities within the exclusive economic zone of that State.

Accordingly, only the international organization may be held liable for any breach of its obligations arising from the fisheries access agreement, and not its member States. Therefore, if the international organization does not meet its "due diligence" obligations, the SFRC Member States may hold the international organization liable for the violation of their fisheries laws and regulations by a vessel flying the flag of a member State of that organization and fishing in the exclusive economic zones of the SRFC Member States within the framework of a fisheries access agreement between that organization and such Member States.

The SRFC Member States may, pursuant to article 6, paragraph 2, of Annex IX to the Convention, request an international organization or its member States which are parties to the Convention for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned must provide this information. Failure to do so within a reasonable time or the provision of contradictory information results

in joint and several liability of the international organization and the member States concerned.

...

***Replies* to the fourth question as follows:**

In the case of stocks referred to in article 63, paragraph 1, of the Convention, the SRFC Member States have the right to seek to agree, either directly or through appropriate subregional or regional organizations, with other SRFC Member States in whose exclusive economic zones these stocks occur upon the measures necessary to coordinate and ensure the conservation and development of such stocks.

Under the Convention, the SRFC Member States have the obligation to ensure the sustainable management of shared stocks while these stocks occur in their exclusive economic zones; this includes the following:

(i) the obligation to cooperate, as appropriate, with the competent international organizations, whether subregional, regional or global, to ensure through proper conservation and management measures that the maintenance of the shared stocks in the exclusive economic zone is not endangered by overexploitation (see article 61, paragraph 2, of the Convention);

(ii) in relation to the same stock or stocks of associated species which occur within the exclusive economic zones of two or more SRFC Member States, the obligation to "seek ... to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks" (article 63, paragraph 1, of the Convention);

(iii) in relation to tuna species, the obligation to cooperate directly or through the SRFC with a view to ensuring conservation and promoting the objective of optimum utilization of such species in their exclusive economic zones (see article 64, paragraph 1, of the Convention). The measures taken pursuant to such obligation should be consistent and compatible with those taken by the appropriate regional organization, namely the International Commission for the Conservation of Atlantic Tunas, throughout the region, both within and beyond the exclusive economic zones of the SRFC Member States.

...

The obligation to "seek to agree ..." under article 63, paragraph 1, and the obligation to cooperate under article 64, paragraph 1, of the Convention are "due diligence" obligations which require the States concerned to consult with one another in good faith, pursuant to article 300 of the Convention. The consultations should be meaningful in the sense that substantial effort should be made by all States concerned, with a view to adopting effective measures necessary to coordinate and ensure the conservation and development of shared stocks.

The conservation and development of shared stocks in the exclusive economic zone of an SRFC Member State require from that State effective measures aimed at preventing over-exploitation of such stocks that could undermine their sustainable exploitation and the interests of neighbouring Member States.

In light of the foregoing, the SRFC Member States fishing in their exclusive economic zones for shared stocks which also occur in the exclusive economic zones of other Member States must consult each other when setting up management measures for those shared stocks to coordinate and ensure the conservation and development of such stocks. Such management measures are also required in respect of fishing for those stocks by vessels flying the flag of non-Member States.

Cooperation between the States concerned on issues pertaining to the conservation and management of shared fisheries resources, as well as the promotion of the optimum utilization of those resources, is a well-established principle in the Convention. This principle is reflected in several articles of the Convention, namely articles 61, 63 and 64.

Fisheries conservation and management measures, to be effective, should concern the whole stock unit over its entire area of distribution or migration routes. Fish stocks, in particular the stocks of small pelagic species and tuna, shared by the SRFC Member States in their exclusive economic zones are also shared by several other States bordering the Atlantic Ocean. The Tribunal, however, has limited its examination and conclusions to the shared stocks in the exclusive economic zones of the SRFC Member States, constrained as it is by the limited scope of its jurisdiction in the present case.

In exercising their rights and performing their duties under the Convention in their respective exclusive economic zones, the SRFC Member States and other States Parties to the Convention must have due regard to the rights and duties of one another. This flows from articles 56, paragraph 2, and 58, paragraph 3, of the Convention and from the States Parties' obligation to protect and preserve the marine environment, a fundamental principle underlined in articles 192 and 193 of the Convention and referred to in the fourth paragraph of its preamble. Living resources and marine life are part of the marine environment and, as stated in the *Southern Bluefin Tuna Cases*, "the conservation of the living resources of the sea is an element in the protection and preservation of the marine environment".

Although, in the present case, the jurisdiction of the Tribunal is limited to the area of application of the MCA Convention, in the case of fish stocks that occur both within the exclusive economic zones of the SRFC Member States and in an area beyond and adjacent to these zones, these States and the States fishing for such stocks in the adjacent area are required, under article 63, paragraph 2, of the Convention, to seek to agree upon the measures necessary for the conservation of those stocks in the adjacent area.

With respect to tuna species, the SRFC Member States have the right, under article 64, paragraph 1, of the Convention, to require cooperation from non-member States whose nationals fish for tuna in the region, "directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species".

B. *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*

47. During consultations held by the President of the Tribunal with representatives of Ghana and Côte d'Ivoire on 2 and 3 December 2014, a special agreement was concluded between the two States on 3 December 2014 to submit the dispute concerning the delimitation of their maritime boundary in the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to article 15, paragraph 2, of the Statute. An original copy of the special agreement was delivered to the Registry on 3 December 2014, which constituted the notification required under article 55 of the Rules. The case was entered in the Tribunal's list of cases as case No. 23.

48. By an order dated 12 January 2015, the Tribunal decided to accede to the request of the parties to form a Special Chamber to deal with the case and determined the composition of the Special Chamber with their approval.[3] By the same order, the Tribunal decided that the written proceedings would consist of a memorial presented by Ghana and a counter-memorial presented by Côte d'Ivoire, and that the Special Chamber might authorize or direct the presentation of a reply by Ghana and a rejoinder by Côte d'Ivoire, if the Special Chamber decided, at the request of a party or *proprio motu*, that these pleadings were necessary.

49. On 18 February 2015, the President of the Special Chamber held consultations with the representatives of the parties in order to ascertain their views with regard to questions of procedure.

50. On 24 February 2015, further to the agreement of the parties, the President of the Special Chamber adopted an order fixing 4 September 2015 as the time limit for the filing of the memorial by Ghana, 4 April 2016 as the time limit for the filing of the counter-memorial by Côte d'Ivoire, and, should the Special Chamber find it necessary to authorize the presentation of a reply and a rejoinder, 4 July 2016 as the time limit for the filing of the reply by Ghana and 4 October 2016 as the time limit for the filing of the rejoinder by Côte d'Ivoire. The memorial was filed within the time limit so prescribed.

51. On 27 February 2015, Côte d'Ivoire filed a request for the prescription of provisional measures by the Special Chamber in accordance with article 290, paragraph 1, of the Convention.

52. By an order dated 6 March 2015, after having ascertained the views of the parties, the President fixed 29 March 2015 as the date for the opening of the hearing.

53. Ghana filed its written statement with the Special Chamber on 23 March 2015.

54. Prior to the opening of the hearing, the Special Chamber held initial deliberations on 28 March 2015.

55. Oral statements were presented at four public sittings held on 29 and 30 March 2015.

[3] For the composition of the special chamber, see para. 21.

56. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions at the hearing on 30 March 2015:

On behalf of Côte d'Ivoire:

> Côte d'Ivoire requests the Special Chamber to prescribe provisional measures requiring Ghana to:
>
> - take all steps to suspend all ongoing oil exploration and exploitation operations in the disputed area;
> - refrain from granting any new permit for oil exploration and exploitation in the disputed area;
> - take all steps necessary to prevent information resulting from past, ongoing or future exploration activities conducted by Ghana, or with its authorization, in the disputed area from being used in any way whatsoever to the detriment of Côte d'Ivoire;
> - and, generally, take all necessary steps to preserve the continental shelf, its superjacent waters and its subsoil; and
> - desist and refrain from any unilateral action entailing a risk of prejudice to the rights of Côte d'Ivoire and any unilateral action that might lead to aggravating the dispute.

On behalf of Ghana:

> Ghana requests the Special Chamber to deny all of Côte d'Ivoire's requests for provisional measures.

57. The Special Chamber delivered its order unanimously on 25 April 2015.

58. In its order, the Special Chamber found that it had prima facie jurisdiction over the dispute (para. 38). While noting that the power to prescribe provisional measures under article 290, paragraph 1, of the Convention "has as its object the preservation of the respective rights of the parties to the dispute or the prevention of serious harm to the marine environment pending the final decision" (para. 39), the Special Chamber observed, however, that it "may not prescribe provisional measures unless it finds that there is 'a real and imminent risk that irreparable prejudice may be caused to the rights of the parties in dispute'" (para. 41). It also considered that "urgency is required in order to exercise the power to prescribe provisional measures, that is to say the need to avert a real and imminent risk that irreparable prejudice may be caused to rights at issue before the final decision is delivered" (para. 42).

59. Concerning "the rights which Côte d'Ivoire claims on the merits and seeks to protect", the Special Chamber stated that, before prescribing provisional measures, it need only satisfy itself that these rights "are at least plausible" (para. 58) and found that "Côte d'Ivoire has presented enough material to show that the rights it seeks to protect in the disputed area are plausible" (para. 62).

60. As regards the request by Côte d'Ivoire for provisional measures to prevent serious harm to the marine environment, the Special Chamber found that "Côte d'Ivoire has not adduced sufficient evidence to support its allegations that the activities conducted by Ghana in the disputed area are such as to create an imminent risk of serious harm to the marine environment" (para. 67). It underlined, however,

that the risk of serious harm to the marine environment was of great concern to it (para. 68) and that the parties should in the circumstances "act with prudence and caution to prevent serious harm to the marine environment" (para. 72).

61. The Special Chamber noted that "there is a risk of irreparable prejudice where, in particular, activities result in significant and permanent modification of the physical character of the area in dispute and where such modification cannot be fully compensated by financial reparations" (para. 89) and that "whatever its nature, any compensation awarded would never be able to restore the status quo ante in respect of the seabed and subsoil" (para. 90). It added that "this situation may affect the rights of Côte d'Ivoire in an irreversible manner if the Special Chamber were to find in its decision on the merits that all or any part of the area in dispute belongs to Côte d'Ivoire" (para. 91). The Special Chamber therefore considered that "the exploration and exploitation activities, as planned by Ghana, may cause irreparable prejudice to the sovereign and exclusive rights invoked by Côte d'Ivoire in the continental shelf and superjacent waters of the disputed area, before a decision on the merits is given by the Special Chamber, and that the risk of such prejudice is imminent" (para. 96).

62. The Special Chamber was of the view that "the suspension of ongoing activities conducted by Ghana in respect of which drilling has already taken place would entail the risk of considerable financial loss to Ghana and its concessionaires and could also pose a serious danger to the marine environment resulting, in particular, from the deterioration of equipment (para. 99). It therefore considered that an order suspending all exploration or exploitation activities conducted by or on behalf of Ghana in the disputed area, including activities in respect of which drilling has already taken place, would cause prejudice to the rights claimed by Ghana and create an undue burden on it and that such an order could also cause harm to the marine environment (paras. 100 and 101). Thus, the Special Chamber considered it appropriate, "in order to preserve the rights of Côte d'Ivoire, to order Ghana to take all the necessary steps to ensure that no new drilling either by Ghana or under its control takes place in the disputed area" (para. 102).

63. For these reasons, the Special Chamber prescribed, pending the final decision, the following provisional measures under article 290, paragraph 1, of the Convention:

(a) Ghana shall take all necessary steps to ensure that no new drilling either by Ghana or under its control takes place in the disputed area ...;

(b) Ghana shall take all necessary steps to prevent information resulting from past, ongoing or future exploration activities conducted by Ghana, or with its authorization, in the disputed area that is not already in the public domain from being used in any way whatsoever to the detriment of Côte d'Ivoire;

(c) Ghana shall carry out strict and continuous monitoring of all activities undertaken by Ghana or with its authorization in the disputed area with a view to ensuring the prevention of serious harm to the marine environment;

(d) The parties shall take all necessary steps to prevent serious harm to the marine environment, including the continental shelf and its superjacent waters, in the disputed area and shall cooperate to that end;

(e) The parties shall pursue cooperation and refrain from any unilateral action that might lead to aggravating the dispute.

64. The Special Chamber further decided that Ghana and Côte d'Ivoire each had to submit an initial report not later than 25 May 2015 to the Special Chamber, and authorized the President of the Special Chamber to request such information as he may consider appropriate after that date. Each party submitted an initial report on the measures taken within the prescribed time limit.

C. *The "Enrica Lexie" Incident (Italy* v. *India), Provisional Measures*

65. On 26 June 2015, Italy instituted arbitration proceedings against India under annex VII to the Convention in a dispute concerning "an incident ... involving *the M/V Enrica Lexie*, an oil tanker flying the Italian flag, and India's subsequent exercise of jurisdiction over the incident".

66. Pending the constitution of the arbitral tribunal and after expiry of the two-week time limit provided for by article 290, paragraph 5, of the Convention, Italy, on 21 July 2015, submitted a request to the Tribunal for the prescription of provisional measures in respect of the dispute concerning the *Enrica Lexie* incident. The case was entered in the Tribunal's list of cases as case No. 24.

67. By an order dated 24 July 2015, after having ascertained the views of the parties, the President fixed 10 August 2015 as the date for the opening of the hearing.

68. Since the Tribunal did not include upon the bench a judge of Italian nationality, Italy chose Francesco Francioni to sit as judge ad hoc in this case, pursuant to article 17 of the Statute and article 19 of the Rules.

69. India filed with the Tribunal a statement in response on 6 August 2015.

70. Prior to the opening of the hearing, the Tribunal held initial deliberations on 8 August 2015.

71. Oral statements were presented at four public sittings held on 10 and 11 August 2015. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions at the hearing on 11 August 2015:

On behalf of Italy:

> Italy requests that the Tribunal prescribe the following provisional measures:
>
> (a) India shall refrain from taking or enforcing any judicial or administrative measures against Sergeant Massimiliano Latorre and Sergeant Salvatore Girone in connection with the *Enrica Lexie* incident, and from exercising any other form of jurisdiction over the *Enrica Lexie* incident; and
>
> (b) India shall take all measures necessary to ensure that restrictions on the liberty, security and movement of the marines be immediately lifted to enable Sergeant Girone to travel to and remain in Italy and Sergeant Latorre to remain in Italy throughout the duration of the proceedings before the annex VII tribunal.

On behalf of India:

> [T]he Republic of India requests the International Tribunal for the Law of the Sea to reject the submissions made by the Republic of Italy in its request for the prescription of provisional measures and [to] refuse prescription of any provisional measure[s] in the present case.

72. The Tribunal delivered its order on 24 August 2015.

73. In its order, the Tribunal noted that "both parties agree that there is a dispute between them on matters of fact and law relating to the *Enrica Lexie* incident" (para. 51). It observed that, at the stage of the provisional measures proceedings, it "must satisfy itself that any of the provisions invoked by the Applicant appear prima facie to afford a basis on which the jurisdiction of the annex VII arbitral tribunal might be founded" (para. 52). Having examined the positions of the parties, the Tribunal found that a dispute appeared to exist between the parties concerning the interpretation or application of the Convention (para. 53), and concluded that "the annex VII arbitral tribunal would prima facie have jurisdiction over the dispute" (para. 54).

74. In the light of the circumstances of the case, the Tribunal found that the requirements of article 283 of the Convention had been satisfied (para. 60). On the issue of exhaustion of local remedies (see article 295 of the Convention), the Tribunal was of the view that "since the very nature of the dispute concerns the exercise of jurisdiction over the *Enrica Lexie* incident, the issue of exhaustion of local remedies should not be addressed in the provisional measures phase" (para. 67). As regards the issue of whether there was an abuse of legal process within the meaning of article 294, paragraph 1, of the Convention, the Tribunal observed that "article 290 of the Convention applies independently of any other procedures that may have been instituted at the domestic level" (para. 73).

75. The Tribunal stated that in provisional measures proceedings, it "does not need to concern itself with the competing claims of the parties ... it needs only to satisfy itself that the rights which Italy and India claim and seek to protect are at least plausible" (para. 84). The Tribunal concluded that "both parties have sufficiently demonstrated that the rights they seek to protect regarding the *Enrica Lexie* are plausible" (para. 85).

76. The Tribunal observed that under article 290 of the Convention it "may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties, which implies that there is a real and imminent risk that irreparable prejudice could be caused to the rights of the parties to the dispute pending such a time when the annex VII arbitral tribunal to which the dispute has been submitted is in a position to modify, revoke or affirm the provisional measures" (para. 87). It concluded that "in the circumstances of the present case, continuation of court proceedings or initiation of new ones by either party will prejudice rights of the other party" (para. 106), and that this consideration "requires action on the part of the Tribunal to ensure that the respective rights of the parties are duly preserved" (para. 107).

77. The Tribunal noted that it was called upon to decide whether the provisional measures requested by Italy were "appropriate taking into account the facts of the case and the arguments advanced by the parties" (para. 109). Considering the conflicting arguments of the parties regarding the status of the two Italian marines,

the Tribunal concluded that the question of their status "relates to the issue of jurisdiction and cannot be decided by the Tribunal at the stage of provisional measures" (para. 113). It emphasized that the order must protect the rights of both parties and "must not prejudice any decision of the arbitral tribunal to be constituted under annex VII" (para. 125). Thus, the Tribunal considered that the two provisional measures requested by Italy, "if accepted, will not equally preserve the respective rights of both parties until the constitution of the annex VII arbitral tribunal" (para. 126). The Tribunal concluded that it "does not consider the two submissions by Italy to be appropriate and that, in accordance with article 89, paragraph 5, of the Rules, it may prescribe measures different in whole or in part from those requested" (para. 127).

78. The Tribunal found that it was appropriate for it to prescribe that "both Italy and India suspend all court proceedings and refrain from initiating new ones which might aggravate or extend the dispute submitted to the annex VII arbitral tribunal or might jeopardize or prejudice the carrying out of any decision which the arbitral tribunal may render" (para. 131). It also found that "since it will be for the annex VII arbitral tribunal to adjudicate the merits of the case, the Tribunal does not consider it appropriate to prescribe provisional measures in respect of the situation of the two marines because that touches upon issues related to the merits of the case" (para. 132).

79. In its order, the Tribunal reaffirmed its view that "considerations of humanity must apply in the law of the sea as they do in other areas of international law" (see para. 133).

80. The Tribunal prescribed, pending a decision by the annex VII arbitral tribunal, the following provisional measure under article 290, paragraph 5, of the Convention:

> Italy and India shall both suspend all court proceedings and shall refrain from initiating new ones which might aggravate or extend the dispute submitted to the annex VII arbitral tribunal or might jeopardize or prejudice the carrying out of any decision which the arbitral tribunal may render.

81. The Tribunal further decided that Italy and India each had to submit an initial report to the Tribunal not later than 24 September 2015, and authorized the President to request such information as he may consider appropriate after that date. Each party submitted an initial report on the measures taken within the prescribed time limit.

D. *The M/V "Norstar" Case (Panama v. Italy)*

82. On 17 December 2015, Panama filed with the Tribunal an application in a dispute with Italy regarding the arrest and detention of the *M/V "Norstar"*, a Panamanian-flagged vessel. In its application, Panama claims compensation from Italy for damage caused by the allegedly illegal arrest of the *M/V "Norstar"* by Spanish officials, at the request of Italy, in the bay of Palma de Mallorca on 24 September 1998. In support of its claim, Panama contends that Italy violated several provisions (inter alia, articles 33, 73 (3) and (4), 87, 111, 226 and 300) of the Convention, in particular the right of freedom of navigation.

83. The dispute has been submitted to the Tribunal pursuant to the declarations made by Panama and Italy under article 287 of the Convention. The case has been entered in the list of cases of the Tribunal as case No. 25.

VII. Appointment of arbitrators by the President of the Tribunal pursuant to article 3 of annex VII to the Convention

84. In accordance with article 3 of annex VII to the Convention, if the parties to a dispute are unable to agree on the appointment of one or more members of the arbitral tribunal to be appointed by common agreement, or on the appointment of the president of the arbitral tribunal, the President of the Tribunal shall make the necessary appointment(s) at the request of any party to the dispute and in consultation with the parties.

85. In the arbitral proceedings under annex VII of the Convention instituted by Italy against India in respect of the dispute concerning the *Enrica Lexie* incident, by a letter dated 8 September 2015, Italy requested the President of the Tribunal to appoint three members of the arbitral tribunal to be constituted and to name one among them to serve as the president of the arbitral tribunal under annex VII. Further to consultations with the parties, on 30 September 2015, Patrick L. Robinson (Jamaica), Jin-Hyun Paik (Republic of Korea) and Vladimir V. Golitsyn (Russian Federation) were appointed as arbitrators and Vladimir V. Golitsyn as president of the arbitral tribunal.

VIII. Legal matters

86. During the period under review, the Tribunal devoted part of its two sessions to the consideration of legal and judicial matters. In this respect, the Tribunal examined various legal issues of relevance to its jurisdiction, its Rules and its judicial procedures. This review was undertaken both by the Tribunal and by its chambers. Some of the main subjects considered are noted below.

A. Jurisdiction, Rules and judicial procedures of the Tribunal

1. Declarations made under articles 287 and 298 of the Convention

87. During the period under review, the Tribunal took note of the information presented by the Registry concerning the status of declarations made under articles 287 and 298 of the Convention.

2. Jurisdiction over fisheries disputes

88. During the period under review, the Tribunal considered, on the basis of an information paper prepared by the Registry, issues relating to its jurisdiction over fisheries disputes, in the light of article 297, paragraph 3, of the Convention.

3. Rules of the Tribunal

89. During the period under review, the Tribunal examined issues relating to the use of experts as provided for in the Convention and the Rules of the Tribunal, on

the basis of an information paper prepared by the Registry. It also considered matters relating to the implementation of article 133 of the Rules in advisory proceedings.

B. Recent developments in law of the sea matters

90. During the period under review, the Tribunal considered reports prepared by the Registry concerning recent developments in law of the sea matters, including recent judgments in maritime delimitation cases.

C. Chambers

91. During the period under review, the Chambers of the Tribunal held meetings in which they considered reports prepared by the Registry on matters falling within the scope of their competence.

IX. Agreement on Privileges and Immunities

92. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months as from 1 July 1997 (SPLOS/24, para. 27). The Agreement entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. At the closing date for signature, 21 States had signed the Agreement. As at 31 December 2015, 41 States had ratified or acceded to it.

X. Relations with the United Nations

93. At the 69th plenary meeting of the seventieth session of the General Assembly, on 8 December 2015, the President of the Tribunal delivered a statement under agenda item 79 (a), "Oceans and the law of the sea".[4] In his statement, the President highlighted the contribution made by the Tribunal to the peaceful settlement of disputes relating to the law of the sea. In this connection, he cited three decisions delivered in 2015, namely those in case Nos. 21, 23 and 24. The President emphasized the Tribunal's commitment to facilitating access to its procedures and conducting capacity-building programmes. He also provided information on the activities planned by the Tribunal to commemorate its twentieth anniversary.

94. During the period under review, the Tribunal approved the recommendations of the Committee on Staff and Administration to submit a proposal to the twenty-fifth Meeting of States Parties with a view to obtaining approval for the Tribunal to participate in the work of the International Civil Service Commission (see SPLOS/280, paras. 24-28). At the twenty-fifth Meeting of States Parties, it was agreed that the Tribunal should subscribe to the Statute of the Commission with

[4] The text of the statement is available on the Tribunal's website: http://www.itlos.org or http://www.tidm.org.

effect from 1 January 2016, on the understanding that the additional expenditure related thereto ($9,000 per annum) would be absorbed into the 2015-2016 budget (see SPLOS/287, para. 39).

XI. Relations with other organizations and bodies

95. On 26 and 27 January 2015, a delegation from the International Court of Justice visited the Tribunal. The delegation consisted of the President of the Court, five other judges of the Court and the Registrar of the Court. The delegation was welcomed by the President of the Tribunal, five other judges of the Tribunal and the Registrar of the Tribunal. During the visit, an exchange of views took place on various aspects of international law of interest to both the Tribunal and the Court.

XII. Headquarters Agreement

96. The Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany was signed on 14 December 2004. It defines the legal status of the Tribunal in Germany and regulates the relations between the Tribunal and the host country. In addition to its provisions, the terms and conditions under which the premises are made available to the Tribunal by Germany are established in the Agreement of 18 October 2000 between the Tribunal and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg.

97. During the period under review the Registry, in cooperation with the Federal Building Authorities of Germany, made several improvements to the Tribunal's equipment and systems, in particular as concerns the fire alarm system and the camera surveillance system.

98. Pursuant to article 1 of the Statute of the Tribunal, which provides that the "seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany" and that the "Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable", the Ministry of Law of Singapore and the President of the Tribunal signed a joint declaration on 31 August 2015 concerning the provision of facilities in the event that the Tribunal were to decide to hold oral proceedings in Singapore. The declaration provides that, "[w]henever the States parties to a dispute before a special chamber of the Tribunal propose that the special chamber sit or otherwise exercise its functions in Singapore, the Tribunal will give due consideration to such proposal" and that, "[s]ubject to the terms and conditions of [a] special arrangement to be concluded ... the Government of Singapore will provide appropriate facilities to the Tribunal whenever a special chamber of the Tribunal sits or otherwise exercises its functions in Singapore".

XIII. Finances

A. Budgetary matters

1. Budget of the Tribunal for 2017-2018

99. During the fortieth session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget of the Tribunal for the financial period 2017-2018 on the basis of draft proposals submitted by the Registrar.

2. Report on budgetary matters for the financial periods 2013-2014 and 2015-2016

100. At its thirty-ninth session, the Tribunal considered the report presented by the Registrar on budgetary matters for the financial periods 2013-2014 and 2015-2016. The report, which was submitted to the twenty-fifth Meeting of States Parties for consideration (SPLOS/280), included the following: the performance report for 2013-2014; a report on action taken pursuant to the decision of the twenty-fourth Meeting of States Parties concerning the budget of the Tribunal for 2015-2016; a report on action taken pursuant to the Financial Regulations of the Tribunal (the surrender of cash surplus from the financial period 2011-2012, the Tribunal's investments, the trust fund for the law of the sea, the Nippon Foundation trust fund and the China Institute of International Studies trust fund); and a proposal regarding the participation of the Tribunal in the International Civil Service Commission.

3. Cash flow situation

101. At its thirty-ninth and fortieth sessions, the Tribunal took note of the information presented by the Registrar concerning the cash flow situation of the Tribunal.

B. Status of contributions

102. As at 31 December 2015, 112 States parties had made contributions to the 2015-2016 budget, totalling €8,923,889, while 55 States parties had not made any payments with respect to their assessed contributions for 2015-2016. The balance of unpaid contributions with respect to the 2015-2016 budget was €519,211.

103. Furthermore, assessed contributions amounting to €815,572 in respect of the Tribunal's budgets for the financial periods 1996-1997 to 2013-2014 were still pending as at 31 December 2015.

104. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to €1,333,783 as at 31 December 2015. In July 2015, the Registrar sent the States parties notes verbales concerning their assessed contributions for the year 2016 of the Tribunal's 2015-2016 budget, and containing information about outstanding contributions to the previous budgets. In December 2015, the Registrar sent notes verbales to the States parties concerned, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Financial Regulations and Rules

105. The Financial Regulations of the Tribunal, adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004.[5]

106. The Financial Rules of the Tribunal were proposed by the Registrar pursuant to financial regulation 10.1(a). They were approved by the Tribunal at its seventeenth session and submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal, which, according to rule 114.1, became effective on 1 January 2005 (the Financial Regulations and Rules of the Tribunal are contained in document SPLOS/120).

107. Pursuant to financial regulation 12.1, the twenty-second Meeting of States Parties appointed Ernst & Young as the Tribunal's auditor for the financial periods 2013-2014 and 2015-2016.

D. Report of the auditor for 2013-2014

108. The results of the audit for the financial period 2013-2014 were presented by the Registrar at the thirty-ninth session of the Tribunal. The Committee on Budget and Finance noted the auditor's opinion that the financial statements for the financial period 2013-2014 had been drawn up, in all materials respects, in accordance with the Financial Regulations and Rules of the Tribunal. The Tribunal took note of the audit report for 2013-2014 (SPLOS/279) and requested that the report be submitted to the twenty-fifth Meeting of States Parties. The twenty-fifth Meeting of States Parties took note with satisfaction of the report of the external auditor (SPLOS/287, para. 29).

E. Trust funds and donations

109. On the basis of resolution 55/7 on "Oceans and the law of the sea" adopted by the General Assembly on 30 October 2000, a voluntary trust fund has been established by the Secretary-General to assist States in connection with disputes to be settled by the Tribunal. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, a contribution to the trust fund was made in 2015 by the Government of the Philippines and the financial statements of the trust fund showed a balance of $131,684 as at 31 December 2015.

110. In 2007, the Nippon Foundation provided a grant to fund the participation of fellows in a capacity-building and training programme on dispute settlement under the Convention. A trust fund was established by the Registrar for this purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. For the period 2007-2015, the Nippon Foundation made nine contributions to the grant. As at 31 December 2015, the balance of total reserves stood at €267,696.

111. In 2010, pursuant to a decision of the Tribunal at its twenty-eighth session, the Registrar established a trust fund for the law of the sea, the terms of reference of which were adopted by the Tribunal and submitted for consideration to the twentieth

[5] Financial Regulations, regulation 14.1.

Meeting of States Parties. The trust fund is intended to promote human resource development in developing countries in the law of the sea and maritime affairs in general. Contributions made to the trust fund are used to provide applicants from developing countries with financial assistance to enable them to participate in the Tribunal's internship programme and the summer academy. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make voluntary financial or other contributions to the trust fund. Thus far, six contributions have been made to the trust fund to support the internship programme. They are as follows: €25,000 in April 2010 by a company from the Republic of Korea operating in Hamburg; and five contributions in the amount of €15,000 by the Korea Maritime Institute, in October 2011, December 2012, October 2013, December 2014 and December 2015, respectively. In August 2014 and August 2015, the Institute made additional contributions to the fund, in the amounts of €20,000 and €31,000, respectively, to be used for the regional workshops held in Nairobi and in Bali, Indonesia. As at 31 December 2015, the balance of total reserves stood at €44,276.

112. In 2012, the China Institute of International Studies provided a grant, in the amount of €100,000, to finance training activities of the Tribunal, including regional workshops, and to provide grants to participants from developing countries in the internship programme and the summer academy. A trust fund was established by the Registrar for that purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. As at 31 December 2015, the balance of total reserves stood at €15,710.

113. In 2015, at its fortieth session, the Tribunal approved the terms of reference for a new trust fund, which has been established by the Registrar pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. The trust fund is intended to finance events and activities organized by the Tribunal for the purpose of celebrating its twentieth anniversary and disseminating information on its role in the settlement of disputes relating to the law of the sea. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make financial or other contributions to the fund.

XIV. Administrative matters

114. During the period under review, the committees of the Tribunal considered various administrative matters within the scope of their activities. Reference is made to some of them in the subsequent paragraphs.

A. Staff Regulations and Staff Rules

115. During the period under review, the Tribunal approved the recommendations of the Committee on Staff and Administration to adopt amendments to the Staff Regulations concerning the salary scale for staff in the Professional and higher categories. The amendments were intended to ensure compatibility of the Staff Regulations of the Tribunal with the United Nations common system of salaries, allowances and benefits, pursuant to regulation 12.6 of the Staff Regulations.

116. During the period under review, in the light of the recommendation of the Committee on Staff and Administration, the Tribunal took note of the amendments proposed to the Staff Rules of the Tribunal concerning the salary scale for staff in the General Service category. Pursuant to regulations 12.2, 12.3 and 12.4 of the Staff Regulations, the amendments to the Staff Rules which had been provisional entered into full force and effect on 1 January 2016.

B. Staff recruitment

117. In 2015, the Tribunal recruited staff members for the posts of Translator/Reviser (P-4), Legal Officer (P-3), Administrative Officer (P-2), Legal Assistant (G-6), Finance Assistant (G-6) and Finance Assistant (G-5).

118. At the end of 2015, recruitment was in progress with respect to the posts of Head of Linguistic Services (P-5), Associate Legal Officer (P-2) and Personal Assistant (President) (G-6).

119. A list of the staff members of the Registry as at 31 December 2015 is contained in annex I to the present report.

120. Temporary personnel were recruited to assist the Tribunal during its thirty-ninth and fortieth sessions and during the hearings and deliberations on case Nos. 21, 23 and 24.

121. The staff of the Registry consists of 38 staff members, of whom 18 are in the Professional and higher categories. The recruitment of staff members in the Professional category, excluding language staff, is subject to the principle of equitable geographical distribution, in accordance with regulation 4.2 of the Staff Regulations. That regulation provides as follows:

> The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Taking into account the small number of staff in the Registry of the Tribunal, a flexible regional approach has been followed in this regard.

122. The Tribunal has taken steps to ensure that vacancy announcements are disseminated in such a way as to recruit staff on as wide a geographical basis as possible. Information on vacancies is transmitted to the embassies in Berlin of the States parties to the Convention, and to the permanent missions in New York. The information is also posted on the Tribunal's website and published in the press.

123. The Tribunal applies, mutatis mutandis, the recruitment procedures followed by the United Nations. In accordance with those procedures, the principle of geographical distribution does not apply to the recruitment of General Service staff. However, the Tribunal has also made efforts to recruit General Service staff on as wide a geographical basis as possible.

C. Staff Pension Committee

124. Further to the proposal of the Tribunal, the sixteenth Meeting of States Parties decided that a Staff Pension Committee should be established with the following composition: (a) one member and one alternate member to be chosen by the Meeting; (b) one member and one alternate member to be appointed by the Registrar; and (c) one member and one alternate member to be elected by the staff. The term of office of members and alternates is three years.

D. Language classes at the Tribunal

125. English and French classes for Registry staff members were held in 2015.

XV. Buildings and electronic systems

A. Building arrangements and new requirements

126. During the thirty-ninth and fortieth sessions, the Registrar presented reports on building arrangements and use of the Tribunal's premises. These reports were reviewed by the Committee on Buildings and Electronic Systems with a view to improving the working conditions of the Tribunal.

B. Use of the premises and public access

127. The following events took place on the premises of the Tribunal during 2015:

(a) Maritime Talks, organized by the International Foundation for the Law of the Sea, 14 March 2015;

(b) International Foundation for the Law of the Sea summer academy, 26 July to 21 August 2015;

(c) Meeting of United Nations Librarians, 26 to 28 August 2015;

(d) Annual General Meeting of the German Federal Bar, 18 September 2015;

(e) Presentation of *Liber Amicorum* for Judge Hugo Caminos, 21 September 2015.

128. In addition, some 1,800 visitors took part in organized tours of the premises of the Tribunal in 2015.

XVI. Library facilities and archives

129. During the thirty-ninth and fortieth sessions, the Registrar reported on several matters pertaining to the Library, including the collections and an integrated library management system. He also presented reports on the archive collections and databases.

130. A list of donors to the Library is contained in annex IV to the present report.

XVII. Publications

131. The status of the Tribunal's publications was reviewed by the Committee on Library, Archives and Publications during the thirty-ninth and fortieth sessions of the Tribunal.

132. During the period under review, the following volumes were published:

(a) *ITLOS Reports of Judgments, Advisory Opinions and Orders 2014, Vol. 14*;

(b) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2013, Vol. 19*;

(c) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2013, Vol. 20*;

(d) *ITLOS Yearbook 2013, Vol. 17*;

(e) *Basic Texts 2015*.

XVIII. Public relations

133. During the period under review, the Committee on Public Relations gave consideration to a set of measures to disseminate information on the work of the Tribunal, including the celebration of the twentieth anniversary of the Tribunal, preparation of a promotional film on the Tribunal and participation by representatives of the Tribunal in international legal meetings. The Tribunal publicized its work by means of its website, press releases and briefings by the Registry, as well as through the distribution of its judgments, orders and publications.

134. The website can be accessed at: http://www.itlos.org and http://www.tidm.org. The texts of judgments and orders of the Tribunal and verbatim records of hearings are available on the website, together with other information about the Tribunal.

135. In 2015, judges and Registry staff members also delivered lectures and published papers on the work of the Tribunal.

XIX. Capacity-building activities

136. A number of capacity-building activities relating to the work of the Tribunal continued to be conducted in 2015.

A. Internship programme

137. The internship programme of the Tribunal, which was established in 1997, is designed to give participants the opportunity to gain an understanding of the work and functions of the Tribunal. Since 2004, funding has been available for applicants from developing countries to assist them in covering the costs incurred for travel to Hamburg and for participation in the programme. From 2004 to 2012, this financial assistance was paid from a trust fund established through a grant provided by the Korea International Cooperation Agency. Since 2012, the assistance has been paid from the trust fund for the law of the sea established by the Tribunal and from the China Institute of International Studies grant.

138. As at the end of 2015, a total of 310 interns from 93 States had participated in the programme, with 122 interns benefiting from funding.

139. During 2015, 15 persons from 15 different countries served periods of internship at the Tribunal. A list of participants in the internship programme during 2015 is contained in annex II to the present report.

140. Information on the programme and the application form are available on the Tribunal's website.

B. Capacity-building and training programme

141. In 2015, for the ninth time, a capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. The Nippon Foundation grant was set up in 2007 to provide capacity-building and training to fellows and assist them in covering the costs incurred by participating in the programme. During the programme, participants attend lectures on topical issues related to the law of the sea and maritime law and training courses on negotiation and delimitation. They also visit institutions working in the fields of law of the sea, maritime law and dispute settlement (inter alia, the International Court of Justice and the International Maritime Organization). At the same time, participants carry out individual research on selected topics. Information about the programme can be obtained from the Registry or from the Tribunal's website.

142. Nationals of Brazil, Georgia, Iran (Islamic Republic of), Liberia, Malaysia, Morocco and Senegal are participating in the 2015-2016 programme (July 2015-March 2016). A list of fellows is contained in annex III to the present report.

C. Regional workshops

143. The Tribunal has organized a series of workshops on the settlement of disputes related to the law of the sea in different regions of the world. The purpose of these workshops is to provide government experts working on maritime and law of the sea matters with insight into the procedures for dispute settlement contained in part XV of the Convention, with special emphasis on the jurisdiction of the Tribunal and the procedural rules applicable to cases before the Tribunal.

144. During 2015, a workshop organized by the Tribunal in cooperation with the Government of Indonesia and the Korea Maritime Institute was held in Bali on 27 and 28 August. The subject was the role of the International Tribunal for the Law of the Sea in the settlement of disputes relating to the law of the sea. Representatives from Cambodia, the Cook Islands, Fiji, Indonesia, the Lao People's Democratic Republic, Micronesia (Federated States of), the Philippines, Samoa, Singapore, Solomon Islands, Thailand, Timor-Leste, Tonga and Viet Nam attended the workshop.

D. Summer academy

145. The International Foundation for the Law of the Sea held the ninth summer academy at the Tribunal's premises from 26 July to 21 August 2015. The academy

focused on "Uses and protection of the sea — legal, economic and natural science perspectives". A total of 41 participants from 40 different countries attended lectures on issues relating to the law of the sea and maritime law. The lectures were given by judges of the Tribunal and by experts, practitioners, representatives of international organizations and scientists.

XX. Visits

146. During the period under review, the Tribunal received a number of visitors, including in particular holders of political office, diplomats, members of judicial authorities, senior government officials, researchers, academics and lawyers.

Annex I

List of staff members of the Registry as at 31 December 2015

A. Professional and higher categories

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Philippe Gautier	Registrar	Belgium	ASG	ASG
Doo-young Kim	Deputy Registrar	Republic of Korea	D-2	D-2
James Scharfer[a]	Head of Linguistic Services	France	P-5	P-5
Ximena Hinrichs	Senior Legal Officer/Head of Legal Office	Chile	P-5	P-5
Louis Savadogo	Legal Officer	Burkina Faso	P-4	P-4
Elzbieta Mizerska-Dyba	Head of Library and Archives	Poland	P-4	P-4
Kafui Gaba Kpayedo	Head of Personnel, Building and Security	Togo	P-4	P-4
Matthias Füracker	Legal Officer	Germany	P-4	P-4
Léonard Gaultier	Translator/Reviser (French)	France	P-4	P-4
Roman Ritter	Head of Budget and Finance	Germany	P-4	P-3
Alfred Gbadoe	Information Technology Officer	Germany	P-3	P-3
Jean-Luc Rostan	Translator (French)	France	P-3	P-3
Yara Saab	Legal Officer	Lebanon	P-3	P-3
Julia Ritter[b]	Press Officer	United Kingdom	P-2	P-2
Vacant	Associate Legal Officer		P-2	
Rosa Jimenez Sanchez	Associate Archivist	Spain	P-2	P-2
Svitlana Buergers-Vereschchak	Associate Administrative Officer (Contributions/Budget)	Ukraine	P-2	P-2
Antje Vorbeck	Associate Administrative Officer (Personnel)	Germany	P-2	P-2

Total posts: 18

[a] Mr. Scharfer retired on 31 December 2015.

[b] The post of Press Officer is occupied 50 per cent by the incumbent of the post, Ms. Ritter. The remaining 50 per cent is currently occupied by Benjamin Benirschke on the basis of an individual contract.

B. General Service

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Andreas Bothe	Building Coordinator	Germany	G-7	G-7
Anke Egert	Publications/Personal Assistant (Registrar)	Germany	G-7	G-7
Jacqueline Winkelmann	Administrative Assistant (Procurement)	Germany	G-7	G-7
Patrice Mba	Information Systems Assistant	Cameroon	G-7	G-7
Ellen Nas[a]	Personal Assistant (President)	Netherlands	G-6	G-6
Berit Albiez	Linguistic Assistant/Judiciary Support	Germany	G-6	G-6
Thorsten Naegler	Finance Assistant	Germany	G-6	G-6
Henrik Boeck	Administrative Assistant (Contributions)	Denmark	G-6	G-6
Elizabeth Karanja	Administrative Assistant	Kenya	G-6	G-6
Béatrice Koch	Linguistic Assistant/Judiciary Support	France	G-6	G-6
Vacant	Legal Assistant		G-6	
Gerardine Sadler	Administrative Assistant	Singapore	G-5	G-5
Emma Bartlett	Personnel Assistant	United Kingdom	G-5	G-5
Anne-Charlotte Borchert[b]	Personal Assistant (Deputy Registrar)	France	G-5	G-5
Svenja Heim	Library Assistant	Germany	G-5	G-5
Christoph Fusiek	Finance Assistant (Accounts Payable)	Germany	G-5	G-5
Sven Duddek	Senior Security Officer/Building Superintendent	Germany	G-4	G-4
Inga Marzahn	Administrative Assistant	Germany	G-4	G-4
Papagne Aziamble	Administrative Support/Driver	Togo	G-4	G-4
Chuks Ntinugwa	Security Officer/Driver	Germany	G-3	G-3

Total posts: 20

[a] Ms. Nas retired on 31 December 2015.

[b] The post of Personal Assistant (Deputy Registrar) is occupied 50 per cent by the incumbent of the post, Ms. Borchert. The remaining 50 per cent is currently occupied by Sylvie Fislage on the basis of a temporary appointment.

Annex II

Internship programme participants (2015)

Name	*State*	*Period*
Basant Abdel-Meguid	Egypt	October-December
Catherine Blanchard	Canada	October-December
Ounassa Boukhmis	Algeria	January-March
Charlotte Claes	Belgium	October-December
Nicolas Cordoba	Colombia	October-December
Cameron Dunning	United States	July-August
Anders Friisk	Norway	January-March
Saeed Hashemilalehabadi	Islamic Republic of Iran	July-September
Lucian Indries	Romania	April-June
Yang Liu	China	January-March
Sarah Lohschelder	Germany	June-August
Lydia Ngugi	Kenya	April-June
Yannick Roucou	Seychelles	July-September
Gynette Tomeba Mabou	Cameroon	April-June
Victor Ventura	Brazil	July-September

Annex III

Information on Nippon fellows (2015-2016)

M'hammed Abidi (Morocco), 24

Mr. Abidi holds a Bachelor of Laws (*Licence en droit*) and a Master's degree (*Master en droit public*) from the University of Fès, Morocco. Since January 2014, he has worked as a legal officer at the Ministry of Foreign Affairs. His task is to deal with the cases concerning the law of the sea and to provide legal advice.

Abdou Khadir Diakhate (Senegal), 32

Mr. Diakhate holds a Bachelor of Laws and a Master's degree (*Master 2 en droit public*) from the Cheikh Anta Diop University, Dakar. Currently, he is a programme assistant in the SRFC Department for the Harmonization of Fisheries Policies and Legislation. He also assists national administrations and professional organizations in the effective application of the Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under the Jurisdiction of the Member States of the Sub-Regional Fisheries Commission.

Joel Elkanah Theoway (Liberia), 28

Mr. Theoway holds a Bachelor of Laws from the University of Liberia. He has worked since 2013 in the Liberian Ministry of Justice as a staff attorney. He supports the Ministry by providing advisory opinions and reviewing treaties prior to ratification by the legislature. With the discovery of oil in Liberia, part of his responsibility is to check all concessions for the award of oil blocks.

Farzaneh Shakeri (Islamic Republic of Iran), 30

Ms. Shakeri holds a Master of Laws and a Bachelor of Laws from the University of Tehran. Since 2010, she has been engaged in PhD studies at the University of Tehran, focusing on international jurisdictions. Currently, she works as an attorney at law and as a research fellow for the Institute of Comparative Law.

Ahmad Mustaqim Shamsudin (Malaysia), 34

Mr. Shamsudin holds a Bachelor of Laws from the International Islamic University Malaysia. Since 2014, he has worked for the Royal Malaysian Navy as a legal officer. His main task is to advise the commanding officer on matters regarding the law of the sea. He is also conducting investigations and reviews on any cases of conflict on the law of the sea involving a Royal Malaysian Navy ship.

Kristina Rzgoeva (Georgia), 33

Ms. Rzgoeva holds a Bachelor of Laws in Jurisprudence from the Ivane Javakhishvili Tbilisi State University. She is currently completing a Master of Laws at the Grigol Robakidze University in Tblisi. Since 2012, she has worked as Head of the Legal Division of the Maritime Transport Agency of the Ministry of Economy and Sustainable Development of Georgia. Her main tasks are to conduct criminal and civil lawsuits, represent the Agency in court and draft new laws, contracts and trusts.

Leonardo De Camargo Subtil (Brazil), 29

Mr. De Camargo Subtil holds a law degree (*Bacharel em Direito*) from the Caxias do Sul University, Brazil, and a Master's degree (*Mestre em Direito*) from the Vale do Rio dos Sinos University, Brazil. At present, he is engaged in PhD studies at the University of Geneva. He is writing a thesis about the influence of the Pact of Bogota in the development of the rulings of the International Court of Justice.

Annex IV

List of donors to the Library of the International Tribunal for the Law of the Sea (2015)[a]

Ricardo Abello, Universidad del Rosario, Bogotá

Bundesamt für Seeschifffahrt und Hydrographie, Hamburg, Germany

Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, New York

European Court of Human Rights, Strasbourg, France

Mara Gómez Pérez, Hipodromo Condesa, Cuauhtemoc, Mexico

International Seabed Authority, Kingston

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

Korea Maritime Institute, Busan, Republic of Korea

Seokwoo Lee, Inha University Law School, Incheon, Republic of Korea

Mare, Die Zeitschrift der Meere, Hamburg, Germany

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Ministry of Foreign Affairs of Singapore, Singapore

Northwest Atlantic Fisheries Organization, Dartmouth, Canada

Marta Chantal Ribeiro, Faculdade de Direito, Universidade do Porto, Porto, Portugal

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Kiel, Germany

World Trade Organization, Geneva

[a] As at 31 December 2015.

United Nations Convention on the Law of the Sea SPLOS/295

Meeting of States Parties

Distr.: General
30 March 2016
English
Original: English and French

Twenty-sixth Meeting
New York, 20-24 June 2016

Report on budgetary matters for the financial periods 2013-2014 and 2015-2016

Presented by the Registrar of the International Tribunal for the Law of the Sea

I. Surrender of cash surplus for the financial period 2013-2014

A. Excess of income over expenditure

1. In June 2015, at its twenty-fifth session, the Meeting of States Parties took note of a final excess of income over expenditure as at 31 December 2014 of €2,055,392 (SPLOS/287, para. 29), as shown in the report of the external auditor for the financial period 2013-2014 (SPLOS/279).

2. As explained in the report on budgetary matters for the financial period 2013-2014, the total expenditure for that period stood at €19,241,443, representing 90.59 per cent of the total appropriation (€21,239,120) (SPLOS/280, para. 2). This performance may be explained by the optimal use of resources in a period of increased judicial workload. In this respect, it may be noted that the appropriations approved for the financial period 2013-2014 were used to cover expenses relating to judicial work of the International Tribunal for the Law of the Sea in the following cases:

(a) Case No. 18 (*The M/V "Louisa" Case* (*Saint Vincent and the Grenadines v. the Kingdom of Spain*))

The case was submitted on 24 November 2010. The deliberations and the meeting of the drafting committee were held in 2013 and the judgment was rendered on 28 May 2013;

(b) Case No. 19 (*The M/V "Virginia G" Case* (*Panama/Guinea-Bissau*))

The case was filed on 4 July 2011. The initial deliberations, the hearing, the deliberations and the meeting of the drafting committee were held from August 2013 to April 2014. The judgment was delivered on 14 April 2014;

16-05162 (E) 180416

Please recycle

(c) Case No. 21 (*Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission*)

On 28 March 2013, the Tribunal received a request for an advisory opinion from the Sub-Regional Fisheries Commission. The initial deliberations, the hearing and the meeting of the drafting committee took place from September to November 2014.

B. Provisional cash surplus

3. Pursuant to regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the provisional cash surplus is determined by establishing the balance between credits (assessed contributions actually received, miscellaneous income received and additional appropriations) and charges (disbursements against appropriations and provisions for unliquidated obligations). For the financial period 2013-2014, the excess of income over expenditure amounts to €2,055,392 and is calculated as follows (in euros):

Credit	21 296 835
Charges	-19 241 443
Excess of income over expenditure	**2 055 392**

4. Pursuant to regulation 4.3 of the Financial Regulations and Rules of the Tribunal, the amount of unpaid contributions should be deducted from this balance. On that basis, the provisional cash surplus for the financial period 2013-2014 was determined to be €1,131,214. This amount was based on the report of the external auditor for the financial period 2013-2014, with financial statements of the Tribunal as at 31 December 2014 (SPLOS/279) and is calculated as follows (in euros):

Credit	21 296 835
Charges	-19 241 443
Cancellation of the 2011-2012 obligations surrendered with the 2011-2012 cash	-49 644
Unpaid contributions	-874 534
Provisional cash surplus	**1 131 214**

C. Cash surplus

5. Under regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the cash surplus is determined by crediting to the provisional cash surplus any arrears of prior periods' contributions received during the financial period and any savings from the provisions made for unliquidated obligations for the financial period.

6. The cash surplus for the financial period 2013-2014 stood at €1,837,669 as at 31 December 2015 and is calculated as follows:

Provisional cash surplus (€1,131,214) + arrears of prior periods' contributions received in 2015 (€664,478) + savings from the provisions made from unliquidated obligations (€41,977) = cash surplus (€1,837,669) to be surrendered to the States parties.

7. The cash surplus, as reflected in paragraph 6, was reviewed by the auditor from 2 to 4 February 2016. The auditor certified that the cash surplus for the financial period 2013-2014 as at 31 December 2015 amounted to €1,837,669 (see annex I).

D. Surrender of cash surplus

8. Under regulation 4.5 of the Financial Regulations and Rules of the Tribunal, the cash surplus will be surrendered as follows:

(a) Apportionment of cash surplus

The cash surplus, as determined above, will be apportioned among the States parties in proportion to their contributions as determined for the financial period 2013-2014, to which the surplus relates.

(b) Surrender of cash surplus

The cash surplus for the financial period 2013-2014 thus apportioned to the States parties will:

(i) Be surrendered to the States parties, provided that their contribution for the financial period 2013-2014 has been paid in full;

(ii) Be applied to liquidate first, in whole or in part, any arrears in contributions.

(c) Retention of cash surplus apportioned but not surrendered

Any cash surplus apportioned to the States parties but not surrendered owing to the non-payment or partial payment of their contributions for the financial period in question will be retained by the Registrar until such time as the contribution for that financial period is paid in full.

9. In compliance with regulation 4.5 of the Financial Regulations and Rules of the Tribunal, the cash surplus of €1,837,669 for the financial period 2013-2014 will be surrendered and deducted from the contributions of States parties for 2017 and for earlier periods, where applicable.

II. Provisional performance report for 2015

10. In June 2014, at its twenty-fourth session, the Meeting of States Parties approved a budgetary amount of €18,886,200 for the financial period 2015-2016 (SPLOS/275, para. 1). The Meeting also requested the Registrar to explore ways of making additional savings in the budget of the Tribunal, keeping in mind the need for the Tribunal to function effectively, and to report on that matter to the Meeting at its twenty-fifth session (ibid. para. 4). In accordance with that request, additional

savings in the amount of €68,600 were made. On that basis, the budget of the Tribunal for 2015-2016 was finally determined to be €18,817,600. This amount included a provision of €2,501,300 under "Case-related costs" to cover the costs relating to the consideration of Case No. 21 and to enable the Tribunal to deal with two urgent proceedings in 2015-2016.

11. Attached as annex II is the performance report for the year 2015, which is provisional since it concerns the first year of the 2015-2016 biennium budget.

12. As shown in annex II, the total expenditure for 2015 stands provisionally at €9,681,068, representing 97.34 per cent of the appropriations in the amount of €9,945,250 allocated that year.

Case-related costs

13. A provision in the amount of €2,501,300 was approved under "Case-related costs" for the 2015-2016 budget. Of that amount, €1,757,800 was allocated for 2015 to deal with part of Case No. 21 and one urgent proceeding. In 2015, the Tribunal completed the consideration of Case No. 21 and dealt with one urgent proceeding in Case No. 24 (*The "Enrica Lexie" Incident (Italy v. India), Provisional Measures*). In addition, the Special Chamber established to deal with Case No. 23 (*Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*) delivered an order in response to a request for provisional measures in April 2015. As a result, 98.15 per cent (€1,725,216) of the provision for 2015 was used by the end of 2015. It may be noted that the Tribunal was able to deal with two urgent proceedings under budgetary appropriations allocated for 2015, owing to the fact that the request for provisional measures in Case No. 23 was dealt with by the Special Chamber, consisting of three members of the Tribunal and two judges ad hoc, and that the request was handled in conjunction with the March session of the Tribunal and the deliberations relating to Case No. 21.

14. The budget line "Temporary assistance for meetings" under "Case-related costs" was overspent in 2015. Overexpenditure under that budget line is largely due to the increase in translation costs relating to the pleadings and the preparation of documents and verbatim records in the hearings relating to Cases Nos. 23 and 24. It was, however, possible to absorb the overexpenditure by using savings under section 11, "Judges".

Recurrent expenditure

15. The following four budget lines under "Recurrent expenditure" were overspent in 2015: "Annual allowances", under "Judges"; "Pension in payment", under "Judges' pension scheme"; "Representation allowance"; and "Hospitality". Overexpenditure under the budget line for the annual allowances of judges is mainly due to the fact that two judges whose term of office ended on 30 September 2014 continued to sit in Case No. 21, in accordance with the Rules of the Tribunal, from 1 October 2014 to 2 April 2015. Accordingly, they received an annual allowance during that period, while the payment of their pension was suspended. In addition, the revision of the remuneration of judges, effective from 1 January 2015, led to an increase in the use of that budget line. Overexpenditure under the budget lines for the pension in payment of judges and the representation allowance was entirely due to the facts that the United States dollar has appreciated more than 25 per cent

against the euro since the approval of the 2015-2016 budget, in June 2014, and that it is still used as the reference currency for those budget lines. Finally, a slight overexpenditure is shown under the budget line on hospitality. This will be taken into account in the use of that budget line in 2016 in order to avoid any overexpenditure over the biennium.

16. If the United States dollar continues to remain strong against the euro in 2016, the budget lines under "Recurrent expenditure" for which the United States dollar is used as the reference currency are expected to show overexpenditure by the end of the current biennium, namely 31 December 2016. In the light of this prospect, it is proposed that, in compliance with regulation 4.6 of the Financial Regulations and Rules of the Tribunal, the Registrar be authorized to make a transfer between appropriation sections to the extent necessary.

17. To that end, it is also proposed that the Registrar be authorized to make a transfer between the sections "Judges" and "Staff costs" under "Case-related costs", in accordance with regulation 4.6 of the Financial Regulations and Rules of the Tribunal.

III. Report on action taken pursuant to the Financial Regulations and Rules of the Tribunal

A. Investment of funds of the Tribunal

18. Regulation 9 of the Financial Regulations and Rules of the Tribunal stipulates the following:

> 9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.
>
> ...
>
> 9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

19. During 2015, the Tribunal's funds were kept at JP Morgan Chase Bank and Deutsche Bank in United States dollars and euros as short-term investments, which are investments made for less than 12 months, according to rule 109.1 under regulation 9. The funds yielded an interest of €2,401 during 2015, which has been credited to miscellaneous income, in compliance with regulation 9.2.

B. Trust fund for the law of the sea

20. At its twenty-eighth session, the Tribunal approved the Registrar's proposal to establish a trust fund for the law of the sea, in accordance with the Financial Regulations and Rules of the Tribunal, and the Registrar subsequently established a new trust fund for the law of the sea with Deutsche Bank, in Hamburg, Germany. The trust fund is intended to promote the advancement of human resources in developing countries in the areas of the law of the sea and of maritime affairs in general. A first contribution to the trust fund was made in 2010 in the amount of €25,000 by Korwind, a Hamburg-based Korean company working in the field of

renewable energy. Subsequent contributions were made from the Korea Maritime Institute in 2011 (€15,000), 2012 (€15,000), 2013 (€15,000), August 2014 (20,000), December 2014 (€15,000), August 2015 (€31,000) and December 2015 (€15,000). Contributions are used to offer financial assistance for participation in the Tribunal's internship programme and the summer academy to applicants from developing countries. The trust fund was also used to finance two regional workshops held in Nairobi in August 2014 and in Bali, Indonesia, in August 2015, respectively. As at 31 December 2015, the performance of the Trust Fund was as follows (in euros):

Contribution	46 000
Expenditure on participants and authorized activity	-49 236
Bank charges	-677
Total	**-3 913**
Reserves from prior periods	48 189
Available balance	**44 276**

C. Nippon Foundation trust fund

21. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation Grant Agreement. Pursuant to that Agreement, the Nippon Foundation agreed to contribute €200,000 to the Nippon Foundation-International Tribunal for the Law of the Sea capacity-building and training programme on dispute settlement under the United Nations Convention on the Law of the Sea.

22. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a trust fund was subsequently established, and a special bank account, named "Nippon Foundation Grant", was set up in euros with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

23. Subsequent contributions were made in the amount of €200,000 in 2008 and in 2009 and in the amount of €230,000 in 2010, 2011, 2012, 2013, 2014 and 2015. The performance of the Nippon Foundation Grant as at 31 December 2015, which is to be reported to the Meeting of States Parties in compliance with regulation 6.5, was as follows (in euros):

Contribution	230 000
Expenditure on participants and authorized activity	-218 826
Bank charges	-426
Account receivable	-9 711
Loss on exchange	-27
Non-refundable tax	-538
Reserves from prior periods	267 224
Available balance	**267 696**

D. China Institute of International Studies trust fund

24. Following the signing of a memorandum of understanding between the Tribunal and the China Institute of International Studies on 3 May 2012, a trust fund — designated as the China Institute of International Studies Grant — was set up to support the Tribunal's internship programme, the summer academy of the International Foundation for the Law of the Sea and other projects, including regional workshops. A contribution from the Institute to the Grant in the amount of €100,000 was received on 20 June 2012 and was used to support the internship programme and the summer academy. As at 31 December 2015, the balance stood at €15,710.

E. Twentieth anniversary trust fund

25. At its fortieth session, in October 2015, the Tribunal decided to establish a trust fund to finance the events and activities that it organized to celebrate its twentieth anniversary and disseminate information on its role in the settlement of disputes relating to the law of the sea (see annex III). No contribution to the fund had been made by the end of 2015.

Annex I

Letter dated 11 February 2016 from Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft to the Registrar

Report of factual findings in connection with the cash surplus for the financial period from 1 January 2013 to 31 December 2014 of the International Tribunal for the Law of the Sea

We have carried out the agreed-upon procedures listed below relating to the cash surplus for the financial period from 1 January 2013 to 31 December 2014 of the International Tribunal for the Law of the Sea (referred to as the "Tribunal" in the following) enclosed with the present letter, as agreed in the engagement agreement of 20 January 2016. The results of our work for the Tribunal are summarized in this report of factual findings. The report is intended to support you in your decision-making by documenting our findings.

Our work is based on our engagement agreement dated 20 January 2016 as well as the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften issued by the Institut der Wirtschaftsprüfer (Institute of German Public Auditors) on 1 January 2002.

We make express reference to the fact that we will not update the report to reflect events or circumstances arising after it is signed, unless required to do so by law.

Our engagement was performed in accordance with the International Standard on Related Services 4400 (Engagements to Perform Agreed-Upon Procedures Regarding Financial Information). The review procedures and the resulting factual findings, which only assist you with complying with the Financial Regulations and Rules of the Tribunal for the financial period 2013-2014, were as follows:

1. With respect to the provisional cash surplus for the period from 1 January 2013 to 31 December 2014, we have reconciled the following with the financial statements audited by Ernst and Young GmbH Wirtschaftsprüfungsgesellschaft, according to the auditor's report issued on 20 February 2015:

- We have reconciled the "final excess of income over expenditure 2013-2014", which amounts to €2,055,392, with the statement of income, expenditure and changes in reserves and fund balances;
- We have reconciled the "cancellation of the 2011-2012 obligations surrendered with the 2011-2012 cash surplus", which amounts to €49,644, with the statement of income, expenditure and changes in reserves and fund balances;
- We have reconciled the "contributions receivable from State Parties with respect to 2013-2014", which amounts to €874,534, with the status of 1996-2014 contributions to the Tribunal.

We have found that:

- The "final excess of income over expenditure 2013-2014", disclosed as €2,055,392, corresponds to the statement of income, expenditure and changes in reserves and fund balances;

- The "cancellation of the 2011-2012 obligations surrendered with the 2011-2012 cash surplus", disclosed as €49,644, corresponds with the statement of income, expenditure and changes in reserves and fund balances;
- The "contributions receivable from State Parties with respect to 2013-2014", disclosed as €874,534, corresponds with the status of 1996-2014 contributions to the Tribunal.

2. We have recalculated the sum of "provisional cash surplus 2013-2014", which amounts to €1,131,214.

We have found that the disclosed sum is calculated adequately.

3. We have reconciled with a sample size the prior periods' contributions received during the period from 1 January to 31 December 2015 with the respective bank documents.

We have found that all investigated contributions were received in 2015.

4. Also, we have reconciled with a sample size savings from the provisions made in the financial statements of the Tribunal for the period from 1 January 2013 to 31 December 2014 for unliquidated obligations disclosed in the cash surplus established by the Tribunal to respective audit evidence.

We have found that all investigated savings were made in 2015.

5. We have recalculated the sum of "cash surplus 2013-2014", which amounts to €1,837,669.

We have found that the disclosed sum is calculated adequately.

Our services do not affect the responsibility of the Tribunal's legal representatives to ensure the accuracy and completeness of the information given in the cash surplus for the financial period from 1 January 2013 to 31 December 2014 of the Tribunal.

Since the aforementioned agreed-upon procedures do not constitute an audit, the continuation of a concluded audit, or a review, we cannot issue an opinion on the disclosures made nor do we report on issues that we might have identified in the course of an audit or review. This report refers only to the items named in the present letter, not to the underlying financial statements.

(*Signed*) Stefanie **Kreninger**
Wirtschaftsprüferin
(German Public Auditor)

(*Signed*) ppa. Annett **Schnitger**
Wirtschaftsprüferin
(German Public Auditor)

Enclosure I: Cash surplus

Enclosure II: General Engagement Terms

Enclosure I

International Tribunal for the Law of the Sea: cash surplus for the financial period 2013-2014

Provisional cash surplus as at 31 December 2014

(Euros)

Final excess of income over expenditure 2013-2014	2 055 392
Cancellation of the 2011-2012 obligations surrendered with 2011-2012 cash surplus	-49 644
Contributions receivable from States parties with respect to 2013-2014	-874 534
Provisional cash surplus 2013-2014	**1 131 214**

Cash surplus as at 31 December 2015

(Euros)

Prior periods' contributions received in 2015	664 478
Savings from 2013-2014 obligations	41 977
Cash surplus 2013-2014	**1 837 669**

Enclosure II

General Engagement Terms for German public auditors and public audit firms as at 1 January 2002

This is an English translation of the German text, which is the sole authoritative version

1. Scope

(a) These engagement terms are applicable to contracts between Wirtschaftsprüfer (German Public Auditors) or Wirtschaftsprüfungsgesellschaften (German public audit firms, hereinafter collectively referred to as the "Wirtschaftsprüfer") and their clients for audits, consulting and other engagements to the extent that something else has not been expressly agreed to in writing or is not compulsory owing to legal requirements.

(b) If, in an individual case, as an exception, contractual relations have also been established between the Wirtschaftsprüfer and persons other than the client, the provisions of No. 9 below also apply to such third parties.

2. Scope and performance of the engagement

(a) The subject of the Wirtschaftsprüfer's engagement is the performance of agreed services — not a particular economic result. The engagement is performed in accordance with the Grundsätze ordnungsmäßiger Berufsausübung (Standards of Proper Professional Conduct). The Wirtschaftsprüfer is entitled to use qualified persons to conduct the engagement.

(b) The application of foreign law requires — except for financial attestation engagements — an express written agreement.

(c) The engagement does not extend — to the extent it is not directed thereto — to an examination of the issue of whether the requirements of tax law or special regulations, such as, for example, laws on price controls, laws limiting competition and Bewirtschaftungsrecht (laws controlling certain aspects of specific business operations) were observed; the same applies to the determination as to whether subsidies, allowances or other benefits may be claimed. The performance of an engagement encompasses auditing procedures aimed at the detection of the defalcation of books and records and other irregularities only if during the conduct of audits grounds for such matters arise or if this has been expressly agreed to in writing.

(d) If the legal position changes subsequent to the issuance of the final professional statement, the Wirtschaftsprüfer is not obliged to inform the client of changes or any consequences resulting therefrom.

3. The client's duty to inform

(a) The client must ensure that the Wirtschaftsprüfer — even without his special request — is provided, on a timely basis, with all supporting documents and records that are required and is informed of all events and circumstances that may be significant for the performance of the engagement. This also applies to those supporting documents and records, events and circumstances that first become known during the Wirtschaftsprüfer's work.

(b) Upon the Wirtschaftsprüfer's request, the client must confirm in a written statement drafted by the Wirtschaftsprüfer that the supporting documents and records and the information and explanations provided are complete.

4. Ensuring independence

The client guarantees to refrain from everything that may endanger the independence of the Wirtschaftsprüfer's staff. This particularly applies to offers of employment and offers to undertake engagements on one's own account.

5. Reporting and verbal information

If the Wirtschaftsprüfer is required to present the results of its work in writing, only that written presentation is authoritative. For audit engagements, the long-form report should be submitted in writing to the extent that nothing else has been agreed to. Verbal statements and information provided by the Wirtschaftsprüfer's staff beyond the engagement agreed to are never binding.

6. Protection of the Wirtschaftsprüfer's intellectual property

The client guarantees that expert opinions, organizational charts, drafts, sketches, schedules and calculations — especially quantity and cost computations — prepared by the Wirtschaftsprüfer within the scope of the engagement will be used only for his or her own purposes.

7. Transmission of the Wirtschaftsprüfer's professional statement

(a) The transmission of a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) to a third party requires the Wirtschaftsprüfer's written consent to the extent that the permission to transmit to a certain third party does not result from the engagement terms. The Wirtschaftsprüfer is liable (within the limits of para. 9) towards third parties only if the prerequisites of the first sentence are given.

(b) The use of the Wirtschaftsprüfer's professional statements for promotional purposes is not permitted. An infringement entitles the Wirtschaftsprüfer to immediately cancel all engagements not yet conducted for the client.

8. Correction of deficiencies

(a) Where there are deficiencies, the client is entitled to subsequent fulfilment of the contract. The client may demand a reduction in fees or the cancellation of the contract only for the failure to subsequently fulfil the contract; if the engagement was awarded by a person carrying on a commercial business as part of that commercial business, a Government-owned legal person under public law or a special Government-owned fund under public law, the client may demand the cancellation of the contract only if the services rendered are of no interest to him owing to the failure to subsequently fulfil the contract. The provisions of section 9 applies to the extent that claims for damages exist beyond this.

(b) The client must assert his or her claim for the correction of deficiencies in writing without delay. Claims pursuant to the first paragraph not arising from an intentional tort cease to be enforceable one year after the commencement of the statutory time limit for enforcement.

(c) Obvious deficiencies, such as typing and arithmetical errors and "formelle Mängel" (deficiencies associated with technicalities) contained in a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) may be corrected — and also be applicable in relation to third parties — by the Wirtschaftsprüfer at any time. Errors that may call into question the conclusions contained in the Wirtschaftsprüfer's professional statements entitle the Wirtschaftsprüfer to withdraw — also in relation to third parties — such statements. In the cases noted, the Wirtschaftsprüfer should first hear the client, if possible.

9. Liability

(a) The liability limitation of article 323 (2) Handelsgesetzbuch (German Commercial Code) applies to statutory audits required by law.

(b) Liability for negligence: An individual case of damages. If neither paragraph 1 is applicable nor a regulation exists in an individual case, pursuant to article 54 a (1) No. 2 Wirtschaftsprüferordnung (law regulating the profession of Wirtschaftsprüfer), the liability of the Wirtschaftsprüfer for claims of compensatory damages of any kind — except for damages resulting from injury to life, body or health — for an individual case of damages resulting from negligence is limited to €4 million. This also applies if liability to a person other than the client should be established. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty without taking into account whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions of acts based on a similar source of error or on a source of error of an equivalent nature are deemed to be a uniform breach of duty if the matters in question are legally or economically connected to one another. In this event, the claim against the Wirtschaftsprüfer is limited to €5 million. The limitation to the fivefold of the minimum amount insured does not apply to compulsory audits required by law.

(c) Preclusive deadlines: A compensatory damages claim may only be lodged within a preclusive deadline of one year of the rightful claimant having

become aware of the damage and of the event giving rise to the claim — at the very latest, however, within five years of the event giving rise to the claim. The claim expires if legal action is not taken within a six-month deadline subsequent to the written refusal of acceptance of the indemnity and the client was informed of this consequence. The right to assert the bar of the preclusive deadline remains unaffected. Sentences 1 to 3 also apply to legally required audits with statutory liability limits.

10. Supplementary provisions for audit engagements

(a) A subsequent amendment or abridgement of the financial statements or management report audited by a Wirtschaftsprüfer and accompanied by an auditor's report requires the written consent of the Wirtschaftsprüfer even if these documents are not published. If the Wirtschaftsprüfer has not issued an auditor's report, a reference to the audit conducted by the Wirtschaftsprüfer in the management report or elsewhere specified for the general public is permitted only with the Wirtschaftsprüfer's written consent and using the wording authorized by him.

(b) If the Wirtschaftsprüfer revokes the auditor's report, it may no longer be used. If the client has already made use of the auditor's report, he must announce its revocation upon the Wirtschaftsprüfer's request.

(c) The client has a right to five copies of the long-form report. Additional copies will be charged separately.

11. Supplementary provisions for assistance with tax matters

(a) When advising on an individual tax issue as well as when furnishing continuous tax advice, the Wirtschaftsprüfer is entitled to assume that the facts provided by the client — especially numerical disclosures — are correct and complete; this also applies to bookkeeping engagements. Nevertheless, he is obliged to inform the client of any errors he has discovered.

(b) The tax consulting engagement does not encompass procedures required to meet deadlines, unless the Wirtschaftsprüfer has explicitly accepted the engagement for this. In this event, the client must provide the Wirtschaftsprüfer, on a timely basis, with all supporting documents and records — especially tax assessments — material to meeting the deadlines, so that the Wirtschaftsprüfer has an appropriate time period available to work with.

(c) In the absence of other written agreements, continuous tax advice encompasses the following work during the contract period:

(i) Preparation of annual tax returns for income tax, corporation tax and business tax, as well as net-worth tax returns on the basis of the annual financial statements and other schedules and evidence required for tax purposes to be submitted by the client;

(ii) Examination of tax assessments in relation to the taxes mentioned in (a);

(iii) Negotiations with tax authorities in connection with the returns and assessments mentioned in paragraphs (i) and (ii);

(iv) Participation in tax audits and evaluation of the results of tax audits with respect to the taxes mentioned in paragraph (i);

(v) Participation in Einspruchs- und Beschwerdeverfahren (appeals and complaint procedures) with respect to the taxes mentioned in paragraph (i);

In the aforementioned work, the Wirtschaftsprüfer takes published legal decisions and administrative interpretations into account.

(d) If the Wirtschaftsprüfer receives a fixed fee for continuous tax advice, in the absence of other written agreements the work mentioned under paragraphs (c) (iv) and (v) will be charged separately.

(e) Services with respect to special individual issues for income tax, corporate tax, business tax, valuation procedures for property and net worth taxation, and net worth tax as well as all issues in relation to sales tax, wages tax, other taxes and dues require a special engagement. This also applies to:

(i) The treatment of nonrecurring tax matters, e.g. in the field of estate tax, capital transactions tax, real estate acquisition tax;

(ii) Participation and representation in proceedings before tax and administrative courts and in criminal proceedings with respect to taxes;

(iii) The granting of advice and work with respect to expert opinions in connection with conversions of legal form, mergers, capital increases and reductions, financial reorganizations, admission and retirement of partners or shareholders, sale of a business, liquidations and the like.

(f) To the extent that the annual sales tax return is accepted as additional work, this does not include the review of any special accounting prerequisites or of the issue as to whether all potential legal sales tax reductions have been claimed. No guarantee is assumed for the completeness of the supporting documents and records to validate the deduction of the input tax credit.

12. Confidentiality towards third parties and data security

(a) In compliance with the law, the Wirtschaftsprüfer is obliged to treat all facts that it comes to know in connection with its work as confidential, irrespective of whether these concern the client himself or his or her business associations, unless the client releases him or her from this obligation.

(b) The Wirtschaftsprüfer may only release long-form reports, expert opinions and other written statements on the results of its work to third parties with the consent of his or her client.

(c) The Wirtschaftsprüfer is entitled — within the purposes stipulated by the client — to process personal data entrusted to it or allow them to be processed by third parties.

13. Default of acceptance and lack of cooperation on the part of the client

If the client defaults in accepting the services offered by the Wirtschaftsprüfer or if the client does not provide the assistance incumbent on him or her pursuant to section 3 or otherwise, the Wirtschaftsprüfer is entitled to cancel the contract immediately. The Wirtschaftsprüfer's right to compensation for additional expenses as well as for damages caused by the default or the lack of assistance is not affected, even if the Wirtschaftsprüfer does not exercise its right to cancel.

14. Remuneration

(a) In addition to its claims for fees or remuneration, the Wirtschaftsprüfer is entitled to reimbursement of his outlays: sales tax will be billed separately. It may claim appropriate advances for remuneration and reimbursement of outlays and make the rendering of its services dependent upon the complete satisfaction of its claims. Multiple clients awarding engagements are jointly and severally liable.

(b) Any set-off against the Wirtschaftsprüfer's claims for remuneration and reimbursement of outlays is permitted only for undisputed claims or claims determined to be legally valid.

15. Retention and return of supporting documentation and records

(a) The Wirtschaftsprüfer retains, for 10 years, the supporting documents and records in connection with the completion of the engagement — that had been provided to him and that he has prepared himself — as well as the correspondence with respect to the engagement.

(b) After the settlement of his claims arising from the engagement, the Wirtschaftsprüfer, upon the request of the client, must return all supporting documents and records obtained from or for him or her by reason of its work on the engagement. This does not, however, apply to correspondence exchanged between the Wirtschaftsprüfer and its client and to any documents of which the client already has the original or a copy. The Wirtschaftsprüfer may prepare and retain copies or photocopies of supporting documents and records that it returns to the client.

16. Applicable law

Only German law applies to the engagement, its conduct and any claims arising therefrom.

Special engagement terms for assurance and related services of Ernst and Young GmbH Wirtschaftsprüfungsgesellschaft, as at 1 May 2013

Preamble

These engagement terms of Ernst and Young GmbH Wirtschaftsprüfungsgesellschaft with registered offices in Stuttgart ("EY GmbH") supplement and specify the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German public auditors and public audit firms), as issued by the Institut der Wirtschaftsprüfer e.V. (Institute of Public Auditors in Germany) on 1 January 2002 and take precedence over the latter. They are subordinate to any engagement agreement. The engagement agreement, together with all enclosures, constitutes the Entire Engagement Terms.

A. Supplementary provisions for audits of financial statements in accordance with section 317 HGB (Handelsgesetzbuch, German Commercial Code) and substantially comparable audits in accordance with international standards on auditing and for voluntary audits of financial statements

EY GmbH will conduct the audit in accordance with section 317 HGB and German generally accepted standards for the audit of financial statements promulgated by the Institut der Wirtschaftsprüfer. As such, EY GmbH will plan and design the audit in accordance with professional standards such that misstatements materially affecting the financial statements to be audited according to the engagement agreement ("financial statements") and any accompanying management report ("management report") are detected with reasonable assurance.

EY GmbH will perform all procedures that it deems necessary under the circumstances to judge in what form the opinion stipulated in section 322 HGB can be rendered on the financial statements and management report. EY GmbH will report on the audit of the financial statements and management report as is customary in German professional practice. The basis of our audit methodology, which is risk- and process-oriented, is the development of an audit strategy. This strategy is based on the assessment of the economic and legal environment of the company, its goals, strategies and business risks. In order to determine the nature, timing and scope of audit procedures, EY GmbH will review and evaluate the system of internal accounting controls to the extent that it deems necessary, in particular where it serves to ensure proper accounting. As is customary, EY GmbH will conduct audit procedures on a test basis; this entails an unavoidable risk that even material misstatements may not be discovered in an audit performed according to professional standards. Therefore, the audit will not necessarily detect any incidences of fraud or other irregularities. EY GmbH points out that an audit is not designed to detect any incidences of fraud or other irregularities which do not affect the compliance of the financial statements and management report with the applicable financial reporting framework. Any such matters detected by EY GmbH in the course of the audit will, however, be brought to the attention of EY GmbH's client immediately.

The above statements on audit objectives and methods apply by analogy to audits of financial statements which are performed in accordance with international standards on auditing and which are substantially comparable in terms of subject and scope.

It is the responsibility of the client's management to correct material errors in the financial statements and, if applicable, in the management report, and to confirm in a letter of representation submitted to us that the effects of any uncorrected errors that we find in the course of the current engagement and that relate to the latest reporting period are immaterial — both individually and in their entirety — for the financial statements as a whole and any management report.

B. Engagement

In the course of the engagement and to protect the economic interests of the client, documents of legal relevance that are directly associated with the client may be made available to EY GmbH. EY GmbH emphasizes that it assumes no obligation to provide legal advice or a legal review and that this engagement does not include general legal advice; accordingly, the client should submit any standard wording made available by EY GmbH in connection with the performance of the engagement to its own legal counsel for a conclusive legal review.

The client is responsible for all management decisions relating to the services performed by EY GmbH and the use of the work product and for determining whether the services performed by EY GmbH are appropriate for the client's own internal purposes.

C. Access to information

The client's management is responsible for ensuring that EY GmbH has unrestricted access to the records, documents and other information necessary for the engagement. The same applies to the presentation of any additional information (e.g., annual report, findings concerning the declaration of compliance in accordance with section 161 AktG (Aktiengesetz, German Stock Corporation Act)) published by the client together with the financial statements and any accompanying management report. The client shall provide such information in good time before the audit opinion is issued or as soon as it becomes available. The information provided to EY GmbH by the client or on behalf of the client shall be complete.

D. Involvement of EY Firms and third parties

EY GmbH may subcontract portions of the services to other members of the global network of Ernst & Young firms ("EY Firms"), as well as to other service providers, who may deal with the client directly. Nevertheless, EY GmbH alone will be responsible to the client for the work product relating to the engagement, the performance of the services and any other obligations under the engagement agreement. Thus the client may not make a contractual claim or bring proceedings arising from the provision of the services or otherwise based on the engagement agreement against any other EY Firm or EY GmbH or its subcontractors, members, shareholders, directors, officers, partners,

principals or employees ("EY Persons"). The client shall make any contractual claim or bring such proceedings only against EY GmbH.

E. Oral information

The client is aware that oral information may be prone to misunderstandings. Should the client intend to base any decision or other business plans on information or advice given orally to the client by EY GmbH, the client is obliged: (a) to inform EY GmbH in good time before such decision and request that it confirm in writing the client's understanding of such information or advice; or (b) in acknowledgment of the above risk of such oral information or advice, to make such decision based on its own judgment and on its own responsibility. Oral statements and information beyond the scope of the engagement are always non-binding.

F. Draft versions issued by EY GmbH

The client may not rely on any draft versions of any work product (which are non-binding), but only on final written versions. Draft versions of the work product only serve EY GmbH internal purposes and/or the coordination with the client and, therefore, only constitute preliminary stages of a work product. They are neither final nor binding and are subject to further review. EY GmbH shall not be required to update any final work product for circumstances of which EY GmbH becomes aware, or events occurring, after the cut-off date indicated in the work product or, in absence of such date, the delivery date of its work product, unless otherwise agreed or unless EY GmbH is obliged to do so with regard to the services provided.

G. Indemnification

The client shall indemnify EY GmbH against all claims by third parties (including affiliates) and resulting liabilities, losses, damages, costs and expenses (including reasonable external legal costs) arising out of the third party's use of or reliance on any work product disclosed to it by or through the client or at the client's request. The client shall have no obligation hereunder to the extent that EY GmbH has specifically authorized, in writing, the third party's reliance on the work product.

H. Electronic mail

The parties may use electronic media to correspond or transmit information. The parties acknowledge that sending information and documents in electronic form (in particular by e-mail) entails risks (e.g., unauthorized access by third parties).

No changes may be made to any documents sent by EY GmbH electronically and no documents may be distributed electronically to third parties without the prior written approval of EY GmbH.

I. Data protection

EY GmbH, other EY Firms, EY Persons and third parties acting on behalf of EY GmbH may collect, use, transfer, store or otherwise process (collectively referred to as "process") client information that can be linked to specific individuals ("personal

data") in various jurisdictions in which EY GmbH and any of them operate (office locations of EY Firms are listed at www.ey.com) for purposes related to the provision of the services, to comply with regulatory requirements, to check conflicts, for quality, risk management or financial accounting purposes or for the provision of other administrative — and information technology — support services. EY GmbH will process the personal data in accordance with applicable law and professional regulations, including (without limitation) the Bundesdatenschutzgesetz (German Federal Data Protection Act). EY GmbH will require any service provider that processes personal data on EY GmbH's behalf to adhere to such requirements.

J. Letter of representation

The letter of representation requested by EY GmbH from management may include confirmation that the effects of uncorrected misstatements on the financial statements and the accompanying management report, as summarized in an enclosure to the representation letter, are immaterial, both individually and in their entirety.

K. Scope of application

The provisions contained in the Entire Engagement Terms — including the provision relative to liability — shall also apply to all other future work for the client unless separate arrangements are made relative to such engagements or they are covered by general agreements, or unless German or foreign legal or official requirements that are binding for EY GmbH conflict with individual provisions in the client's favour.

The services of EY GmbH are governed exclusively by the terms and conditions set forth in the Entire Engagement Terms. No other terms and conditions are part of the contractual agreement unless the client has expressly and specifically agreed otherwise with EY GmbH in writing. The client's general terms and conditions of purchase shall not apply even if reference is made to such terms and conditions in automated purchase orders and EY GmbH does not expressly object or EY GmbH begins rendering the services without reservation.

L. Applicable law and court of competent jurisdiction

The engagement shall be governed by the professional principles developed and adopted by the authoritative German professional organizations (Wirtschaftsprüferkammer, Institut der Wirtschaftsprüfer e.V., Steuerberaterkammer) to the extent applicable to the engagement.

Reciprocal claims arising from this engagement shall be subject to German law.

Any dispute relating to the engagement or the services shall be subject to the exclusive jurisdiction of the courts of Stuttgart, Germany, or, at EY GmbH's discretion, (a) the court located where the EY GmbH office that conducted the main part of the work is registered, or (b) the courts located where the client is registered.

Annex II

Provisional performance report for 2015 as at 31 December 2015

(Euros)

Part/ Section	Objects of expenditure	2015-2016 approved budget	2015	2015 expenditure (as at 31 December 2015)	2015 unliquidated obligations (as at 31 December 2015)	2015 total expenditure (as at 31 December 2015)	Balance	Total expenditure approved budget (percentage)
A	**Recurrent expenditure**							
1	**Judges**	**4 246 100**	**2 135 550**	**2 067 246**	**0**	**2 067 246**	**68 304**	
	Annual allowances	3 008 300	1 504 150	1 544 732	0	1 544 732	-40 582	102.70
	Special allowances	917 900	458 950	381 743	0	381 743	77 207	83.18
	Travel to sessions	274 600	144 800	132 906	0	132 906	11 894	91.79
	Common costs	45 300	27 650	7 865	0	7 865	19 785	28.44
2	**Judges' pension scheme**	**967 800**	**483 900**	**614 392**	**0**	**614 392**	**-130 492**	
	Pension in payment	967 800	483 900	614 392	0	614 392	-130 492	126.97
3	**Staff costs**	**7 533 900**	**3 772 450**	**3 518 622**	**71 174**	**3 589 796**	**182 654**	
	Established posts	5 085 200	2 542 600	2 402 424	0	2 402 424	140 176	94.49
	Common staff costs	2 045 000	1 022 500	945 222	57 974	1 003 196	19 304	98.11
	Overtime	25 000	13 500	11 436	1 330	12 766	734	94.56
	Temporary assistance for meetings	197 900	101 950	97 482	0	97 482	4 468	95.62
	General temporary assistance	107 900	55 450	35 293	8 504	43 797	11 653	78.98
	Training	72 900	36 450	26 765	3 366	30 131	6 319	82.66
4	**Representation allowance**	**11 100**	**5 550**	**6 867**	**0**	**6 867**	**-1 317**	**123.73**
5	**Official travel**	**180 300**	**90 150**	**78 908**	**6 799**	**85 707**	**4 443**	**95.07**
6	**Hospitality**	**14 300**	**7 150**	**8 329**	**0**	**8 329**	**-1 179**	**116.49**
7	**Operating expenditure**	**2 888 000**	**1 454 000**	**1 262 164**	**117 865**	**1 380 029**	**73 971**	
	Maintenance of premises (including security)	2 159 000	1 079 500	1 003 439	70 251	1 073 690	5 810	99.46
	Rental and maintenance of equipment	355 600	185 300	135 303	26 668	161 971	23 329	87.41
	Communications	189 200	97 100	63 283	15 677	78 960	18 140	81.32
	Miscellaneous services and charges (including bank charges)	41 000	20 500	14 709	0	14 709	5 791	71.75
	Supplies and materials	122 400	61 200	45 430	5 269	50 699	10 501	82.84
	Special services (external audit)	20 800	10 400	0	0	0	10 400	0.00

Part Section	Objects of expenditure	2015-2016 approved budget	2015	2015 expenditure (as at 31 December 2015)	2015 unliquidated obligations (as at 31 December 2015)	2015 total expenditure (as at 31 December 2015)	Balance	Total expenditure/ approved budget (percentage)
8	**Library and related costs**	**320 000**	**160 000**	**136 866**	**21 125**	**157 991**	**2 009**	
	Library — procurement of books and publications	242 000	121 000	111 681	8 610	120 291	709	99.41
	External printing and binding	78 000	39 000	25 185	12 515	37 700	1 300	96.67
B	**Non-recurrent expenditure**							
9	**Furniture and equipment**							
	Purchase of equipment	154 800	78 700	22 066	23 429	45 495	33 205	57.81
C	**Case-related costs**	**2 501 300**	**1 757 800**	**1 723 107**	**2 109**	**1 725 216**	**32 584**	
11	**Judges**	**1 889 700**	**1 329 600**	**1 092 300**	**0**	**1 092 300**	**237 300**	
	Special allowances	1 468 500	1 033 700	855 306	0	855 306	178 394	82.74
	Compensation to judges ad hoc	110 800	55 400	67 755	0	67 755	-12 355	122.30
	Travel to meetings (including judges ad hoc)	310 400	240 500	169 239	0	169 239	71 261	70.37
12	**Staff costs**	**611 600**	**428 200**	**630 807**	**2 109**	**632 916**	**-204 716**	
	Temporary assistance for meetings	577 800	405 700	603 560	2 109	605 669	-199 969	149.29
	Overtime	33 800	22 500	27 247	0	27 247	-4 747	121.10
	Total	**18 817 600**	**9 945 250**	**9 438 567**	**242 501**	**9 681 068**	**264 182**	**97.34**

Annex III

Terms of reference

A. Object and purpose of the Trust Fund

1. The object of the Trust Fund ("the Fund") is to finance events and activities organized by the International Tribunal for the Law of the Sea ("the Tribunal") to celebrate its twentieth anniversary and disseminate information on its role in the settlement of disputes relating to the law of the sea.

2. The events and activities relating to the celebration of the twentieth anniversary of the Tribunal will take place in 2016 at the seat of the Tribunal in Hamburg, Germany, and at the Headquarters of the United Nations, in New York.

B. Contributions to the Fund

3. The Tribunal invites States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, to make voluntary financial or other contributions to the Fund.

C. Application of the Financial Regulations and Rules of the Tribunal

4. The Registrar establishes the present Fund in accordance with the Financial Regulations and Rules of the Tribunal. The Financial Regulations and Rules of the Tribunal will apply to the administration of the Fund. The Fund will be subject to the auditing procedures provided therein.

D. Reporting to the Meeting of States Parties

5. An annual report on the activities of the Fund, including details of contributions and disbursements from the Fund, will be made to the Meeting of States Parties.

E. Implementing office

6. The Registry of the Tribunal is the implementing office for the Fund and will provide the services required for the operation of the Fund.

F. Revision

7. The Tribunal may revise the above if circumstances so require. Any revision shall be brought to the attention of the Meeting of States Parties.

United Nations Convention on the Law of the Sea SPLOS/296

Meeting of States Parties

Distr.: General
31 March 2016
English
Original: English/French

Twenty-sixth Meeting
New York, 20-24 June 2016

Appointment of Auditor for the financial years 2017-2020

Presented by the Tribunal

1. Pursuant to Regulation 12.1 of the Financial Regulations of the Tribunal:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. In order to enable the Tribunal to make proposals regarding the appointment of an auditor, seven internationally recognized firms of auditors with offices in Germany (Baker Tilly Roelfs, BDO, Deloitte, Ernst & Young, KPMG, PricewaterhouseCoopers and Warth & Klein Grant Thornton) and two German companies (Roedl & Partner and Ebner Stolz) were contacted by the Registry. In November 2015, the Registry sent those firms a request for quotation together with a scope of audit (annex I). Since the Tribunal has no internal audit service, the request for quotation included a provision for an interim audit every two years, that is, in 2018 and 2020, as well as a provision for the audit of the cash surplus.

3. Except for Deloitte, Roedl & Partner and Ebner Stolz, all firms responded to the request, and the quotations received by the Registry are as follows:

Audit firm	*Total (including expenses, excluding VAT) 2017-2018*	*Total (including expenses, excluding VAT) 2019-2020*
	(euros)	
Baker Tilly Roelfs	12 000	12 000
BDO	11 600	11 600
Ernst & Young	27 500	27 500
KPMG[a]	19 845	16 695
PricewaterhouseCoopers	23 000	23 000
Warth & Klein Grant Thornton	22 500	22 500

[a] The proposed fees of KPMG for the financial period 2017-2018 include fees for the audit of the 2015-2016 cash surplus, the 2017-2018 interim audit, the audit of the 2017-2018 financial statements and the audit of the 2017-2018 cash surplus, while the proposed fees for the financial period 2019-2020 include only the fees for the 2019-2020 interim audit and the audit of the 2019-2020 financial statements.

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Please recycle

4. The Registry evaluated the tenders received, taking into account the technical ability to perform the audit in accordance with generally accepted common auditing standards, the interest of the Tribunal and the best value for the money.

5. The Registry concluded that all six tenders met the requirements for performing the audit of the accounts of the Tribunal, as specified in annex II.

6. The amount of €19,145 has been included in the draft budget proposals of the Tribunal for 2017-2018 for the 2017-2018 audit, on the basis of the average of the six quotations selected in paragraph 5. The amount will be adjusted according to the decision taken by the Meeting of States Parties.

7. It may be noted that the following Auditors were previously selected to conduct the audit of the financial statements of the Tribunal:

Financial period	*Firm*	*Cost*
1996/97	Arthur Andersen	$13 000
1998	Arthur Andersen	$13 000
1999	Arthur Andersen	$13 000
2000	Arthur Andersen	$13 000
2001	PriceWaterhouseCoopers	$13 100
2002	PriceWaterhouseCoopers	$13 400
2003	PriceWaterhouseCoopers	€14 000
2004	Deloitte & Touche	€9 200
2005-2006	BDO Deutsche Warentreuhand	€7 000
2007-2008	BDO Deutsche Warentreuhand	€7 000
2009-2010	BDO Deutsche Warentreuhand	€10 450
2011-2012	BDO Deutsche Warentreuhand	€10 450
2013-2014	Ernst & Young	€20 000
2015-2016	Ernst & Young	€20 800

8. At its forty-first session, the Tribunal examined the quotations and the evaluation carried out by the Registry and decided to transmit that information to the Meeting of States Parties for its consideration, should the Meeting decide to appoint an internationally recognized firm of auditors as Auditor for the financial periods 2017-2018 and 2019-2020.

Annex I

Request for quotation

9 November 2015

The International Tribunal for the Law of the Sea is an independent international organization that has been established by the United Nations Convention on the Law of the Sea, with its seat in Hamburg, Germany. The Tribunal started its operation in October 1996.

The Tribunal has a biennial budget of approximately €20 million. Its budget is financed from the contributions paid by the States Parties to the Convention.

Pursuant to regulation 11.4 of the Financial Regulations of the Tribunal, "[t]he accounts for the financial period shall be submitted by the Registrar to the Auditor not later than 31 March following the end of the financial period."

Pursuant to regulation 12.1 of the Financial Regulations of the Tribunal, "[t]he Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors or an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor."

A decision regarding the appointment of an auditor for the financial periods 2017-2018 and 2019-2020 will be taken by the Meeting of States Parties to the Convention (166 States and the European Union) in June 2016.

We kindly request you to send us a quotation by 31 December 2015 for audits of the Tribunal's financial periods 2017-2018 and 2019-2020.

The whole process of audit consists of three steps: interim audit in 2018 and 2020, audit of the financial records in 2019 and 2021 and audit of the cash surplus in 2018 and 2020.

The quotation should include all costs related to the audit of the financial records, e.g. remuneration, travel, per diem, disbursements, etc., which will take place after the end of the financial period concerned (i.e., 2019 and 2021).

As we contemplate interim audits of the financial records and administrative procedures covering the records for the years 2017 and 2019, the quotation should also include the interim audits which will take place in 2018 and 2020.

In addition, the quotation should further include the audit of the cash surplus relating to the financial periods 2015-2016 and 2017-2018. Under the Financial Regulations and Rules of the Tribunal, the cash surplus is established one year after the closing of the financial period to which it relates, i.e. in 2018 (for the financial period 2015-2016) and 2020 (for the financial period 2017-2018).

The financial statements of the Tribunal will cover the two financial periods ending 31 December 2018 and 31 December 2020. The audited financial statements and the audit reports must be prepared after the end of the financial period and presented to the Tribunal during its administrative sessions. These sessions are to be held in March 2019 and March 2021.

On the basis of the above, the audit schedule for the financial periods 2017-2018 and 2019-2020 will be as follows:

2017-2018

– Audit of the cash surplus for 2015-2016: to be completed by mid-February 2018

– Interim audit for 2017: April/May 2018

– Audit for 2017-2018: to be completed by mid-February 2019

– Audit of the cash surplus for 2017-2018: to be completed by mid-February 2020

2019-2020

– Interim audit for 2019: April/May 2020

– Audit for 2019-2020: to be completed by mid-February 2021

The scope of the audit is defined in the enclosure accompanying the present letter (see enclosure).

Please do not hesitate to contact me on telephone number 040-35607266, Mr. Roman Ritter, e-mail ritter@itlos.org or Mrs Svitlana Buergers, e-mail hartmann@itlos.org should you require clarification or desire further information.

We look forward to your prompt response.

Yours sincerely,

(*Signed*) Doo-young **Kim**
Deputy Registrar

Enclosure

Scope of audit

(a) Whether the financial statements of the International Tribunal for the Law of the Sea present fairly in all material aspects the financial situation;

(b) Whether the expenses incurred during these financial periods are in accordance with the appropriations approved by the Meeting of States Parties;

(c) Whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rules or the Financial Regulations of the Tribunal;

(d) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided for in the Rules or the Staff Regulations and Staff Rules of the Tribunal;

(e) Whether goods and services have been procured in accordance with the procedure provided for in the Financial Regulations and Financial Rules of the Tribunal;

(f) Whether the goods and services that have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal;

(g) Whether the grants given to the Tribunal by the Chinese Institute of International Studies, the Nippon Foundation and the Trust Fund for the Law of the Sea maintained in separate special accounts are administered in accordance with the relevant memorandums and terms of reference;

(h) Whether the cash surplus for the financial period has been established in accordance with the Financial Regulations and Financial Rules of the Tribunal.

Annex II

Annex to the Financial Regulations

Additional terms of reference governing the audit of the International Tribunal for the Law of the Sea

1. The Auditor shall perform such audit of the accounts of the Tribunal, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

(a) That the financial statements are in accord with the books and records of the Tribunal;

(b) That the financial transactions reflected in the statements have been in accordance with these Regulations and the Financial Rules, the budgetary provisions and other applicable directives;

(c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Tribunal's depositaries or by actual count;

(d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified that has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Tribunal and the Meeting of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements which shall read as follows:

> We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Tribunal for the Law of the Sea for the financial period ended 31 December .... Our examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances.

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with these Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Tribunal for the financial period shall be submitted to the Meeting of States Parties through the Tribunal. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept; where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters that the Auditor considers should be brought to the notice of the Meeting of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Tribunal's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Tribunal to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Meeting of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority that governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stocktaking and examination of the reports;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Meeting of States Parties should have early knowledge of.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Meeting of States Parties, the Tribunal or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.

United Nations Convention on the Law of the Sea SPLOS/297

Meeting of States Parties

Distr.: General
31 March 2016

Original: English

Twenty-sixth Meeting
New York, 20-24 June 2016

Nomination of a member and an alternate member to the staff pension committee of the International Tribunal for the Law of the Sea

Note by the International Tribunal for the Law of the Sea

I. Introduction

1. The International Tribunal for the Law of the Sea has been a member of the United Nations Joint Staff Pension Fund since 1 January 1997. Article 4 (a) of the regulations of the Fund provides: "The Fund shall be administered by the United Nations Joint Staff Pension Board, a staff pension committee for each member organization, and a secretariat to the Board and to each such committee."

2. In conformity with the regulations of the United Nations Joint Staff Pension Fund, the Meeting of States Parties decided at its sixteenth session that the staff pension committee of the Tribunal would be constituted as follows:

(a) One member and one alternate member to be chosen by the Meeting of States Parties for a term of office of two years;

(b) One member and one alternate member to be appointed by the Registrar for a term of office of two years;

(c) One member and one alternate member to be elected by the staff members who are participants in the Fund for a term of office of two years (SPLOS/147).

3. In 2007, the Meeting of States Parties, at its seventeenth session, appointed Senegal and Canada as member and alternate member of the staff pension committee, respectively (SPLOS/164, paras. 39-40).

4. In November 2009, the staff pension committee held its first regular meeting at the premises of the Tribunal and adopted the rules of procedure of the committee. The rules entered into force on 1 December 2009.

5. Article 1, paragraph 2, of the rules of procedure of the staff pension committee provides:

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The members and alternate members shall hold office for three years or until the election of their successors, and they shall be eligible for re-election; in the event that a member or alternate member ceases to be a member or alternate member of the Committee, another member or alternate member may be chosen to hold office during the remainder of the term.

6. In 2010, upon the recommendation of the Tribunal, the twentieth Meeting of States Parties decided:

(a) That the Meeting of States Parties would nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as a member and as an alternate member of the committee and that the nominated States would then appoint local diplomats as their representatives on the staff pension committee;

(b) To change the term of office of the members and alternate members of the staff pension committee from two years to three years (SPLOS/214).

7. The twentieth Meeting of States also decided to nominate Indonesia as a member of the staff pension committee (SPLOS/218, para. 50). Given that no nomination was made for the position of alternate member, Canada remained an alternate member of the committee in accordance with article 1, paragraph 2, of its rules of procedure.

II. Proposal in respect of the nomination of a member and an alternate member to the staff pension committee

8. In the light of the expiry of the terms of office of the current member and the current alternate member of the staff pension committee, as nominated by the Meeting of States Parties, it is proposed that the Meeting either choose a new member and new alternate member of the committee or extend the nominations of Indonesia as member and Canada as alternate member for a three-year term of office starting on 1 July 2016. To that end, a draft decision is submitted herewith.

Annex

Draft decision relating to the staff pension committee of the International Tribunal for the Law of the Sea

The Meeting of States Parties,

Considering that the Meeting of States Parties at its sixteenth session decided that the staff pension committee of the International Tribunal for the Law of the Sea would be composed of three members and three alternate members and that one member and one alternate would be chosen by the Meeting of States Parties,

Considering also that the Meeting of States Parties chose Indonesia as member and Canada as alternate member of the staff pension committee in 2010 and 2007 respectively,

Noting that the terms of office of the Embassy of Indonesia in Berlin and the Embassy of Canada in Berlin have expired,

Noting also that, once their terms of office have expired, members and alternate members continue to hold office until their successors are nominated,

[*Decides* to nominate [State] as member and [State] as alternate member of the staff pension committee for a three-year term of office starting on 1 July 2016.]

[*Decides* to extend the nominations of Indonesia as member of the staff pension committee and Canada as alternate member of the staff pension committee for a three-year term of office starting on 1 July 2016.]

United Nations Convention on the Law of the Sea SPLOS/298

Meeting of States Parties

Distr.: General
18 April 2016

Original: English

Twenty-sixth Meeting
New York, 20-24 June 2016

Letter dated 18 April 2016 from the Chair of the Commission on the Limits of the Continental Shelf addressed to the President of the twenty-sixth Meeting of States Parties

Introduction

1. I wish to inform you, in my capacity as Chair of the Commission on the Limits of the Continental Shelf, about the progress of work of the Commission since the twenty-fifth Meeting of States Parties, held in June 2015.

2. The Commission held its thirty-eighth, thirty-ninth and fortieth sessions at United Nations Headquarters, from 20 July to 4 September 2015, from 19 October to 4 December 2015 and from 1 February to 18 March 2016, respectively. Documents CLCS/90, CLCS/91 and CLCS/93, respectively, contain a more detailed account of the progress of work of the Commission during those sessions with regard to the submissions under active consideration by the Commission and its subcommissions. The present letter concentrates on issues that the Commission has requested me to bring to the attention of the Meeting of States Parties, given that they relate to the discharge of the mandate of the Commission under the United Nations Convention on the Law of the Sea.

Consideration of submissions and approval of recommendations

3. During the above-mentioned sessions, the Commission and its subcommissions considered the submissions made by: the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Uruguay; the Cook Islands, in respect of the Manihiki Plateau; Argentina; Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge; Norway, in respect of Bouvetøya and Dronning Maud Land; South Africa, in respect of the mainland of the territory of the Republic of South Africa; the Federated States of Micronesia, Papua New Guinea and Solomon Islands, jointly, concerning the Ontong Java Plateau; France and South Africa, jointly, in the area of the Crozet Archipelago and the Prince Edward Islands; Kenya; Mauritius, in the region of Rodrigues Island; Nigeria; and Seychelles, in respect of the Northern Plateau Region.

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4. The Commission continued the consideration of the draft recommendations with regard to the submission made by Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge, and commenced the consideration of three draft recommendations submitted to it by the subcommissions, namely, those concerning the submissions made by the Cook Islands, in respect of the Manihiki Plateau, Argentina and Uruguay. At its fortieth session, the Commission approved two recommendations, with regard to the submissions made by Argentina and by Iceland, in respect of the Ægir Basin area and the western and southern parts of Reykjanes Ridge. The consideration of the recommendations with regard to the submissions made by Uruguay and the Cook Islands, in respect of the Manihiki Plateau, will continue at the forty-first session.

5. During the thirty-eighth and the fortieth sessions, the Commission heard presentations on the new or revised submissions made by the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Angola; Cabo Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone, jointly, in respect of areas in the Atlantic Ocean adjacent to the coast of West Africa; and Spain, in respect of the area west of the Canary Islands.

6. Furthermore, the Commission established new subcommissions, thus bringing the number of subcommissions actively considering submissions to 10.

7. Lastly, the Commission took note of the amendments to the submissions made by Myanmar, Mauritius, in the region of Rodrigues Island, and Somalia. In addition, an amended submission was deposited by Côte d'Ivoire after the fortieth session and its consideration will be included in the provisional agenda for the forty-first session.[1]

Workload of the Commission

8. With respect to the workload of the Commission and its working arrangements, I wish to recall that, since 2013, the Commission has held three sessions annually of 7 weeks each, for a total of 21 weeks a year, including 4 weeks of plenary meetings and 17 weeks of meetings when subcommissions worked simultaneously. This working arrangement was adopted by the Commission at its thirtieth session (CLCS/76), in response to a request of the twenty-first Meeting of States Parties (SPLOS/229), notwithstanding the fact that there was no substantive change in the working conditions of members of the Commission, compared with the previous terms of office during which they met for fewer weeks per year.

9. In particular, the Commission is aware of the interest of submitting coastal States in the advancements in its work. In this regard, during the past four years, the Commission made substantial progress in its work and in dealing with the considerable workload. Eight subcommissions completed the consideration of the submissions assigned to them; for six of these submissions, the Commission adopted recommendations. It established, or reconstituted, subcommissions for 16 new or revised submissions, which already represents a 23 per cent increase, compared with the previous term, bearing in mind that further subcommissions might be formed before the expiration of the term of office of the current Commission. The Commission is pleased to report, that, during the current term, it

[1] To be issued as CLCS/L.41.

has considered more submissions than any other Commission, in line with the analysis that led to the increased number of work weeks in New York. In addition, the previously increasing backlog of submissions in the queue, for which a subcommission has not yet been established, has begun to decrease. However, the backlog of submissions currently stands at 45, and the Commission is still faced with an immense workload in the decades ahead. In this connection, the Commission recognizes that the pace of examination of the submissions has been hampered by factors beyond its control, as outlined below.

10. In this regard, I note that, in view of the relatively large number of new members of the Commission following the 2012 election, sufficient time was required for the new members to become acquainted with the practice of the Commission and its subcommissions, as well as with the submissions then under active consideration. In addition, for the majority of its term, the Commission could not benefit from full membership, and one vacancy remains unfilled despite one by-election during the twenty-fifth Meeting of States Parties and in view of the lack of nominations for a by-election to be conducted during the resumed twenty-fifth Meeting.

11. It should also be noted that, during the current term, the Commission has dealt with voluminous submissions of considerable complexity requiring extensive deliberations at both the subcommission and the plenary levels.

12. In addition to these factors, certain trends have emerged in the practice of delegations when interacting with the subcommissions, which have had a direct impact on the amount of time required for the examination of their submissions. These have included:

(a) The frequent submission of extensive new data and information by the submitting State or amendments to the submission made by the submitting State in the course of the examination of a submission at the subcommission level;

(b) Requests by the submitting State to delay or suspend the consideration of a submission for a certain period of time to allow for the acquisition of new data and information or the conducting of additional studies;

(c) Delays in the scheduled provision of responses, data and information to subcommissions, at times communicated shortly before or after the expiration of the agreed deadlines.

13. One additional factor that has had an occasional impact is the exercise by coastal States of their right to classify material contained in the submission as confidential, pursuant to annex II to the rules of procedure of the Commission. Such a classification does not allow for the consideration of parts or all of the submission outside the premises of the Division for Ocean Affairs and the Law of the Sea and thus requires members of the subcommissions to access data and information only during regular office hours at the premises of the Division when in New York.

14. The Commission hopes that, similarly to the past terms, a number of additional recommendations will be approved towards the end of the term of office of the present members.

Conditions of service

15. In addressing the issues of the conditions of service of the Commission, I wish, on behalf of its members, to acknowledge with appreciation the work undertaken by the Meeting of States Parties, including its open-ended working group on the conditions of service of members of the Commission, and the General Assembly. These efforts have led to the recognition by the Assembly of the need of the members of the Commission for more suitable working space on the premises within the Division for Ocean Affairs and the Law of the Sea. In this connection, with regard to short-term solutions, the Commission noted with appreciation that the Assembly had requested that the Secretary-General provide cost-effective, transportable and non-structural improvements to address some of the immediate working space needs of the Commission. As far as long-term solutions are concerned, the Commission noted with appreciation that the Assembly had recognized that, owing to its exceptional character, the Commission has special requirements for its working space, including the need for additional fit-for-purpose working space, adequate technical equipment and climate control, and needs to remain located within the same premises as the Division.

16. Regarding medical insurance, I wish to recall the understanding of the Commission that reimbursement of the costs of medical travel insurance for those members who benefit from the trust fund, established pursuant to General Assembly resolution 55/7 for facilitating the participation of members of the Commission from developing countries in the meetings of the Commission, is an interim measure and that a more permanent solution will be presented in the future. I would also like to recall that the Commission has consistently reiterated that, when the conditions of service of its members are addressed, no distinction should be made between members of the Commission from developing and developed States.

17. Lastly, I wish to convey the expectation of the members of the Commission that the Meeting of States Parties will continue its deliberations with a view to satisfactorily addressing the other conditions of service, such as the loss of career opportunities and income while in New York for 21 weeks a year, visits by family members and the high cost of prolonged stays in New York, especially in relation to the effects that these conditions might have on the attendance of the members at all sessions of the Commission.[2]

Voluntary trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission

18. Turning to matters concerning the trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission, allow me first to convey the gratitude of the members of the Commission to States that have made contributions to the fund. Without these generous contributions, a number of members would not be in a position to attend the sessions of the Commission.

19. At the same time, I would like to express our great concern in view of the rapidly decreasing balance of the trust fund. Without additional contributions to be received as soon as possible, preferably during 2016, the Commission may not have

[2] See SPLOS/263, para. 77. See also SPLOS/140, annex, and SPLOS/259, paras. 25 and 26.

the required quorum to conduct its business during the remainder of its term of office if members nominated by developing States who benefit from the trust fund are absent. In practical terms, this means that the Commission may not be in a position to approve recommendations on several submissions that have been considered over an extensive period of time. Therefore, the Commission would like to express its appreciation for the call by the General Assembly for contributions to be made to the fund, and I would like to echo that call.

20. The Commission has taken note of the decision of the General Assembly to amend the terms of reference, guidelines and rules of the trust fund established for the purpose of facilitating the preparation of submissions to the Commission for developing States, in particular the least developed countries and small island developing States, and compliance with article 76 of the Convention. I would like to recall that these amendments were approved in order to assist developing States in meeting the travel and daily subsistence allowance costs associated with meeting with the Commission. This decision has certain implications for the Commission, given that it will require more advanced planning of the meetings involving delegations from developing States. The Commission, together with the Secretariat, is already taking the steps necessary to issue invitations early in order to allow for additional time required for requests for assistance from the fund to be processed.

Attendance of members and vacancy owing to the resignation of one member of the Commission

21. As mentioned above, in order to exploit the full potential of the Commission, attendance of members at the sessions of the Commission is of critical importance. In this regard, I would like to reiterate the Commission's appeal to all nominating States to support their members and their members' participation in the work of the Commission, including the attendance at sessions of the Commission in full, including through, as appropriate, making timely requests for assistance from the voluntary trust fund established to facilitate the participation of the members of the Commission from developing countries in the work of the Commission.

22. As also mentioned above, the Commission has been working for an extended period of time with only 20 members.[3] The importance of the full membership of the Commission is self-evident, given that the lack thereof has a direct impact on the efficiency in its work. The Meeting of States Parties, which elects members of the Commission, plays a key role in this regard. On behalf of the Commission, I would like to appeal to the Meeting of States Parties to take all steps necessary so that the Commission can benefit from full membership.

Other matters

23. In conclusion, allow me to address matters of a practical nature. In order to take due account of all communications addressed to the Commission, submitting States are kindly invited, during the consideration of their respective submissions, to address all communications to the Chair of the Commission or to the Chair of the relevant subcommission, as appropriate, and transmit them through the Secretariat. Should States wish to make new or revised submissions or to transmit communications relating to submissions of other States, they should address them to

[3] See CLCS/90, para. 2 and footnote 1.

the Commission through the Secretary-General. Submitting States are also invited to ensure that the Geographic Information System part of their submissions still in the queue is regularly updated in order to ensure that the Commission is able to examine these submissions with the software and other technical tools available to it once they reach the top of the queue.

(*Signed*) Lawrence Folajimi **Awosika**
Chair of the Commission on the Limits of the Continental Shelf